JARROD W. RAMOS	*	**In the COURT OF APPEALS of MARYLAND**
v.	*	**Pet. Docket No.** 466
ERIC THOMAS HARTLEY, et al.	*	**September Term, 2015**

Petition for Writ of Certiorari

Granting this petition is in the public interest because it presents two issues of first impression, one of which relates to the public's confidence in the Maryland Judiciary. A previous petition was correctly denied because it also included a pedestrian threshold issue that was pending in the Court of Special Appeals ("CSA"). But what that court instead found was an issue that confounds the vast majority of the Maryland State Bar.

Questions Presented

1. Did the CSA err by finding "palpable" failure to state a claim without attempting to distinguish *Time, Inc. v. Firestone*, 424 U.S. 448 (1976), in which a publication that repeated a defamatory allegation from a court document was still false even after judgement had been entered against the defamed?

2. Can an appellate court act as a finder of fact under Rule 8-414 after a trial court denies a Rule 8-413(a) motion to correct the record without making any factual findings?

3. If, by clear and convincing evidence, a meritless motion to dismiss is also fraudulent, and the defendant is complicit in that fraud, is it an abuse of discretion to *not* strike the motion as permitted by Rule 1-311(c) and enter an order of default?

Statement of the Case

This tort action originates from the Circuit Court for Prince George's County as case number CAL12-22839. Docket entries are **Exhibit A**. At a hearing on March 29, 2013, the Honorable Maureen M. Lamasney granted a preliminary motion to dismiss, entirely adjudicating all claims and the related rights and liabilities of all parties. The trial court's oral opinion and resulting judgement are **Exhibits B** and **C**, respectively.

Judge Lamasney refused to evaluate the entire complaint (*see* Ex. B at 16:11-8) and also indicated no awareness of the fraud allegation Petitioner raised. His motion for

the court to refer the matter to the Attorney Grievance Commission and initiate criminal contempt proceedings went unaddressed. He had also requested the motion to dismiss be stricken and orders of default be entered against the Respondents, which he renewed with a timely post-judgement motion to amend. Rather than hold a hearing, Judge Lamasney signed an order on December 9, 2013, **Exhibit D**, denying the motion. She additionally determined to amend her judgement anyway, listing alternative grounds for dismissal without elaboration, though the Respondents never filed a motion to amend.

Petitioner appealed and this action was docketed in the CSA as case number 2281, September Term of 2013. After the appeal was ordered to proceed, Petitioner filed a motion to correct the record in the trial court. While that motion was unopposed after the Respondents' time to answer had expired, Judge Lamasney denied it on April 1, 2014, again without elaboration. That order is **Exhibit E**. Petitioner once more moved to correct the record after it was transmitted to the appellate court. That motion, the Respondents' answer, and Petitioner's reply are **Exhibits F**, **G** and **H**, respectively. The motion also requested a stay of the filing of briefs "because the disposition ... impacts the presentation of issues in this appeal[.]" Ex. F at 7.

Chief Judge Peter B. Krauser never sent the motion to a panel of judges. Instead, by order dated April 16, 2015, **Exhibit I**, he denied the motion without elaborating how "It appears from the record the [missing] papers ... are, in fact, in the record[.]" Because that "forced an abandonment of the fraud allegation," the first petition for certiorari was filed. **Exhibit J** at 8.[1] This Court denied the petition, number 137 of the 2015 Term.

This case was submitted on brief in the CSA. One day later, a panel comprised of Judges Wright, Graeff and Moylan affirmed the circuit court's dismissal in an unreported opinion that declared, "A discussion of defamation law would be an exercise in futility[.]" **Exhibit K** at 8. The mandate of the CSA issued on October 19, 2015. This petition seeks review of that judgement and Chief Judge Krauser's order that is Exhibit I, as well as the three orders by Judge Lamasney that are Exhibits C through E.

[1] Exhibits A through I in Exhibit J are the same as Exhibits A through I of this petition.

Statement of Facts

Robert C. Douglas telephoned Petitioner's home in November 2011, leaving a voice message identifying himself as "an attorney with the Capital-Gazette newspapers" and proposing, "They forwarded to me your material, and I just want to chat with you about it." Petitioner countered, "You may direct any meaningful correspondence to this mailing address." Douglas's next contact came a year later when he filed the motion to dismiss. He complained of prejudice: the Respondents were "only now aware that they must prepare a defense" and suffering difficulty.

That motion nevertheless raised an array of defenses. It supposed not a single element of a defamation claim was pleaded, but, if defamation was sufficiently pleaded, the affirmative defense of a qualified privilege also justified dismissal. Also, because Petitioner amended his complaint prior to having the Respondents served, there was insufficient service of process. If none of these were meritorious, then the amended complaint did not relate back to the original pleading, thus exposing the defamation claim to the statute of limitations. Finally, because the Respondents never received the original pleading, there was insufficient process. Douglas personally attested: "A copy of the July filing was discovered by counsel for Defendants when he reviewed the file in the clerk's office after service of the October Complaint was made."

Nobody has ever disputed that Douglas lied, and the Respondents were indeed served a copy of every paper that had been filed in this case. Nor would the record be restricted to Petitioner's word versus the word of Douglas and the Respondents: Capital-Gazette Communications Inc. and LLC, America's oldest newspaper publishers; Thomas Lee Marquardt, *The Daily Record's* 2010 Most Influential Person in Maryland and soon-to-be-former editor and publisher of *The Capital*; and Eric Thomas Hartley, former *Capital* reporter who would never write another opinion column about a private citizen after the one which brought on this lawsuit. Perhaps unknown to the Respondents, but not to Petitioner, one process distributed for service had already been returned to the court—returned unserved—by the sheriff. A copy of the "July filing" was included.

Nobody disputed that Douglas lied, although this is what Petitioner accused in his opposition to dismissal, which included a Motion for Grievance, Contempt, Sanctions and Default. Petitioner reasoned the motion to dismiss was professing "the processes served on Defendants did not include a copy of [the original pleading]." He charged, "Not only are [the Respondents] liars, but so too their counsel, caught red-handed." Petitioner included an affidavit avowing he now even had a certified copy of the returned process and "had no knowledge or belief this unserved process would not be served."

The Respondents filed a reply 104 days after being served with the Motion for Grievance, Contempt, Sanctions and Default. "This Response addresses all issues raised by the Plaintiff," they began. Though their motion to dismiss specifically cited Rule 2-322(a)(3) (insufficiency of process), they now maintained they had only raised "statute of limitations, improper service of process, and the Plaintiff's failure to plead sufficient facts[.]" They then explained why their service of process argument was not fraudulent. They also argued that, alternatively, if the motion to dismiss was fraudulent, they could still not be charged with contempt because Rule 15-205(b)(5) prohibits a private citizen from moving the court. Alternatively, "even assuming the Court desired to grant a Motion for Default," this was prohibited because Petitioner had not shown that the Respondents—who had all made an appearance—were not in military service.

This sound and fury signified very little to Judge Lamasney, however, who dismissed this case after a hearing of about 15 minutes and then departed the courtroom. That hearing began with uninterrupted remarks about murderers and Congress by Douglas, who then offered to discuss the legal elements of defamation. The court instead directed Petitioner to respond, and then received answers to her series of questions about his claim. The court asked Douglas if he would like to be heard further, to which he argued that the statement highlighted by Petitioner was copied from a public record and thus "the immunity" applied. Petitioner expounded the fair report privilege, emphasizing its requirement of impartiality, and then Judge Lamasney announced she was dismissing

this case because the statement was not false. She also decreed Petitioner had not pleaded malice, though she never received nor solicited any argument on this point.

But the Respondents did falsely report Petitioner was convicted of harassment for writing, "[Expletive] you, leave me alone," to a person who had not contacted him in months. Petitioner never made this statement or any other statement indicating he suffers from hallucinations. Hartley had warning the person Petitioner did indeed harass was not only the daughter of Maryland's former Commissioner of Correction, but also a "bipolar drunkard." Her allegation was never repeated until the Respondents publicized it as a proven truth, transposing it from her application for charges to Petitioner's guilty plea.

Nor did Petitioner ever tell his victim, "You're going to need a restraining order now," though the Respondents reported this as well. To the contrary, the same page of the application for charges Hartley copied the "leave me alone" allegation from instead accused Petitioner of saying, "I'm done bothering you now," which was not reported.[2] Hartley also falsely reported he left an unreturned call for Petitioner, though he never requested or left a message for Petitioner's comment. Hartley never even telephoned Petitioner, though he had his phone number and reported his guilty plea five days later under the headline "Jarrod wants to be your friend."

In the motion to amend, Petitioner particularized his argument for orders of default because "[the Respondents and their counsel] have conspired to perpetrate a fraud upon [the court], fabricating false grounds for dismissal." He noted the motion to dismiss "offered no other ground for insufficiency of process than the implication that the served processes omitted [the original pleading]."[3] He noted the Respondents' silent retraction of this defense. "None of Defendants objected to being misrepresented; this fraud was collectively ratified by each of them. They did it because they had no worthy defense."

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[2] As Petitioner had been convicted in the District Court, he retained the right to a jury trial on appeal. The Respondents nevertheless publicized the false and incriminating information in collaboration with the Anne Arundel County State's Attorney's Office.

[3] One potential other ground was actually apparent. Hartley, who had relocated to California, gave a false identity when served process. The server erroneously believed she had served a co-tenant until she was later shown Hartley's picture. *See* Ex. A at 4.

The Respondents retorted without elaboration, "[T]he baseless nature of these allegations has been addressed in a previous filing[.]"

Efforts to Correct the Record

Upon identifying the motion to dismiss as fraudulent, Petitioner contacted the court clerk's office about obtaining a certified copy of the returned unserved process. On November 29, 2012, he filed a letter formalizing this request and acquired the certified documents at that time. Several weeks later, he unexpectedly received a mailing from the clerk's office postmarked December 21, 2012. The envelope contained another certified copy of court records, similar to the one purchased the month before.

There were several indications, however, this set of copies included original court documents removed from the case file: some pages were of a heavier, 32-pound paper used by Petitioner; ink bleed-through of signatures was visible on the reverse side of some pages, and there was tactile indenture where these papers were signed; and the top margin of these same pages included two punched holes. Both sets of certified copies were produced by the same clerk, who had related to Petitioner that her mother in Vermont was ill and possibly near death, and that she was noticing herself making mistakes as a result.

It was not until Petitioner inspected the case file after noting an appeal when he observed the absence of the same documents included in the second certified copy. His motion to correct the record in the trial court requested a hearing and cited Rule 8-413(a), alleging part of the returned unserved process was missing. The motion was supported by Petitioner's affidavit, explaining the matter as above. The motion finally stated the sought correction related to a fraud allegation against the Respondents and their counsel that would be an issue on appeal.

The Respondents would only answer the motion after Judge Lamasney denied it, but before her order was docketed. 52 days later the Respondents filed a Motion for Clarification and Response to Plaintiff's Motion to Correct the Record. Petitioner argued in the CSA (*see* Ex. F at 5-6), and the Respondents did not disagree, that the deceitful and

frivolous nature of their motion constituted waiver of an opposition to the record's correction. They also did not dispute any aspect of the certified statement of facts Petitioner provided with his Rule 8-414 Motion to Substantively Correct Record. Petitioner also filed a Motion to Administratively Correct Record in the appellate court because the record was transmitted prior to the docketing of the Respondents' Motion for Clarification. *See* Ex. F, n. 1. This was also denied by the Chief Judge. *See* Ex. I.

The Rule 8-414 motion argued that Judge Lamasney abused her discretion by denying the record's correction because she had refused to even exercise her discretion. Despite the inconsistency between the content of the record and the docket entry for the returned unserved process, the trial court made no factual findings and took no action to "cause the record to conform to its decision" as required by Rule 8-413(a). Furthermore, as the record currently reflects that Petitioner attempted to cause service of a process comprised solely of exhibits B through O of his complaint, any finding the record is not incorrect would be "ludicrous" in the face of Petitioner's unopposed motion. Ex. F at 5.

The motion also argued, citing the language of Rule 8-414(b) and ***Mosley v. State***, 378 Md. 548, n. 15 (2003), that it was appropriate for an appellate court to act as a trier of fact on the issue presented. Even an evidentiary hearing was permissible, although unwarranted given the Respondents' waiver. Moreover, the clearly erroneous standard was not applicable because the trial court made no factual findings, one way or the other. But the motion left open the possibility of a hearing because "a hearing is the only way to exhibit the documents in [Petitioner's] custody and to be restored to the record."

First Certiorari Petition

The previous petition posed alternate versions of the questions here. Noting that the fraud allegation "cannot be presented in good faith when the record depicts an insufficient process returned unserved," the petition was also filed to preserve the issue for review by this Court. Ex. J at 8. Petitioner's brief in the CSA, **Exhibit L**, posed only one question: whether the complaint states a legal claim.

The Respondents opposed granting the writ on three grounds. First, they objected that certiorari would "short-circuit the appellate process," even though this Court can bypass the CSA any time it chooses. Second, after assuring they "have not, and do not, oppose creating an accurate record," the Respondents unearthed *Greff v. Fickey*, 30 Md. 75 (1869) to support the proposition an inaccurate record cannot be corrected by an appellate court. Finally, they argued certiorari should be denied because Petitioner publically criticizes judges and lawyers on a Twitter page, **Exhibit M**, that includes profanity. They also suggested the web site contains unspecified "falsehoods."[4]

The Respondents again did not contest any fact asserted in the petition and rested on the general denial, "There is no evidence that counsel for the Respondents lied[.]"

The CSA's Decision

Judge Moylan, who personally appeared in a separate Eric Hartley opinion column about how "important" and "ruthless" he is, **Exhibit P**, did not recuse himself. Instead, he authored a legal opinion involving Eric Hartley and cleared the Respondents of liability. Not only did that legal opinion omit a discussion of law, but also any mention there had been a fraud allegation, motion to correct the record, or petition for this Court's review. Puzzled by whether the complaint was "even cognizable," the inferior appellate court avoided the "anguish" of deciding the relation back issue. Ex. K at 5.

The CSA relied on the trial court's ruling, copying 72 lines of transcript from Exhibit B and "supplying emphasis" by underlining 42 of those lines. *See* Ex. K at 6-8. These lines included Judge Lamasney's refusal to consider the entire complaint and also her insertion of an extra-judicial opinion that anyone bringing a defamation claim against a newspaper—"whoever they may be"—does so with unrealistic expectations about his

[4] The Respondents may still dispute the indictment by *Capital* reporter Melinda Hoffman Rice, "I am instructed to write stories with a slant I cannot back up with facts and believe to be untrue." Ex. M at 2. This statement was credited by a jury, however, when it found Marquardt and the Capital-Gazette had maliciously defamed attorney John R. Greiber and awarded $2.5 million that did not even include presumed or punitive damages. *See* **Exhibit N**. *See also* **Exhibit O** (Rice: "I was ordered to do something unethical.").

rights.[5] *See* Ex. B at 15:12-8. The panel agreed the complaint does not allege anything to be false and represented, "[Petitioner] claims only that 'Hartley's column fails the test of fairness because he editorialized on the story's meaning.'" Ex. K at 8. In doing so, they quoted the end of a paragraph that began, "Though the Appellees are not the original source of these statements, they are responsible for publicizing them." Ex. L at 4. That paragraph did not discuss falsity but rather the fair report privilege as a counterbalance to the concept of defamation by republication. It was immediately followed:

> The column also fails the test of accuracy. It does not present the "leave me alone" allegation as an allegation; it presents it as a proven fact. For this reason, that statement is false in two senses: not only does the column claim Appellant said something he did not say; it claims he was convicted for something he was not convicted for. This case is similar to *Time, Inc. v. Firestone*, 424 U.S. 448 (1976), in which Time magazine falsely reported a divorce had been granted on grounds of adultery. In fact, while a divorce had been granted, adultery was not the court's basis and this had only been alleged during an earlier proceeding in the case.

Id. at 5.[6] The CSA's opinion did not mention *Firestone*. The Respondents' brief, which was a copy of their motion to dismiss, did not mention *Firestone*.

The CSA tacked on a finding there is no allegation of harm. *See* Ex. K at 8. Even the Respondents' brief acknowledged specific harm need not be pleaded when presumed damages are available. After opening its opinion by calling this a "pro se appeal," the panel repeated the fact Petitioner appears pro se and opined, "A lawyer would almost certainly have told him not to proceed with this case." *Id.* Having forwent a discussion of defamation law, they then proclaimed Petitioner's motives do not comport with defamation law. They admitted there was more than one side to the story depicted in the Hartley column. They found the Hartley column was not impartial. *Id.* at 9.

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[5] Petitioner readied the appellate issue of Judge Lamasney's disqualification, but this also became unpresentable because the circuit court has revoked her status as a designated dispositive motions judge.

[6] While Petitioner's brief focused on one statement from the column for simplicity of reversal, the complaint identifies 14 passages as conveying false assertions of fact.

Closing with the refrain, "[Petitioner] was charged with a criminal act … perpetrated a criminal act … plead [sic] guilty to having perpetrated a criminal act … was punished for his criminal act," the panel decreed Lori Michelle Sondervan (the harassee) is entitled to sympathy and Petitioner is not. According to the CSA, he is not allowed to plead she is a "bipolar drunkard" and his doing so proves he has not "learned his lesson." In fact, the complaint pleads Ms. Sondervan committed perjury while pursuing a peace order to cause Petitioner's probation to be revoked—only to be thwarted on appeal—and that she did so in conspiracy with the Respondents and the State's Attorney's Office to derail this lawsuit before it began. That malicious use of process is a subject of *Ramos v. Sondervan*, case number CAL14-20315 in the Circuit Court for Prince George's County. Sondervan's motion to dismiss, which was prepared by an attorney, was denied.[7]

Argument

This is the Court's opportunity to illustrate for the first time: (1) an abuse of the fair report privilege, (2) an actual error in the record corrected by Rule 8-414, and (3) a paper "signed with intent to defeat the purpose" of Rule 1-311. These three omissions from Maryland case law correspond to the questions presented by this petition. The first two issues are each a threshold to the next, and all three should be granted certiorari.

This Court's guidance on the fair report privilege was needed as recently as 2012 in *Piscatelli v. Smith*, 424 Md. 294. That case showed the news media they are protected to print a fair and accurate report about claims made in court.[8] This case would be an excellent companion to *Piscatelli* to show what is not allowed. Personal attacks dressed up as slanted news are not protected. If an unethical organization sets out to defame somebody and rely on the fair report privilege to get away with it, they absolutely are obligated to print his side of the story. Judge Lamasney, the CSA, and the Respondents

[7] In a rebalancing of pragmatism over idealism, Petitioner is no longer pursuing that litigation and has intended to bring on counsel after a reversal in this case.

[8] Piscatelli was accurately portrayed as a target of the defense in a murder trial. Smith's report advocated no position, cited its sources, included Piscatelli's denials of any involvement, and even noted the accuser's subsequent expressions of doubt.

all disregard fairness, but fairness matters. Like in court, fairness demands that all sides be heard. Certiorari should issue to make this clear.

This Court has developed an interest in Rule 8-414 even more recently. By its Rules Order of September 17, the Court is amending and expanding Rule 8-414 effective January 1, 2016. This was prompted by the Court's own request to the Rules Committee for the purpose of clarifying the scope of the rule. *See* One Hundred Eighty-Seventh Report of the Standing Committee on Rules of Practice and Procedure, 15-6 (May 12, 2015). To date, however, Rule 8-414 has only been examined "in general terms." *Id.*

This case would be an excellent vehicle for the Court to explicate Rule 8-414 and its forthcoming amendment. Notably, while there is yet to be a published case where a Maryland appellate court has acted as a finder of fact on the issue of what occurred in the trial court, the amendment further suggests this is possible. The future Rule 8-414(b)(2) will read in part: "If the appellate court does not resolve the dispute over what occurred in the lower court, the appellate court may direct the lower court to determine whether the record differs from what actually occurred[.]" Thus, the appellate court may resolve the dispute. Remanding for fact finding would presumably always be preferable, but in this case there would be no point because the outcome is clear. Also, there is no dispute. The Court should grant certiorari on the second issue and grant the Rule 8-414 motion that is Exhibit F, which is hereby adopted by reference.[9]

Rule 1-311 is a lynchpin of the Maryland Judiciary. The attention it has received is disproportionately little. Amazingly, while the rule mentions its own "purpose," there is no case explaining what that purpose is. *Attorney Grievance v. Dore*, 433 Md. 685 (2013), comes closest with a discussion about affidavits and the integrity of the judicial process. *Dore* also acknowledges the 2010 emergency amendment to Rule 1-311, which made clear papers—not just pleadings—may be stricken. Yet there is only one case,

[9] An order like that proposed in Exhibit E would be sufficient. *See* Rule 8-414(c) ("The order of the appellate court to correct the record constitutes the correction."). The method and timing of the filing would be at the Court's discretion. *See* Rule 8-414(d) ("[T]he appellate court may … direct the argument to proceed as if the correction or addition had been made and permit it to be filed after argument.").

Ungar v. Handelsman, 325 Md. 135 (1992), where Rule 1-311 was actually used to strike anything.[10] All other applications of Rule 1-311 simply involve a question of whether a paper was signed or if the signature was sufficient. Even in *Ungar*, a paper was stricken only because its signature was deemed a forgery. Rule 1-311 is far deeper than that. The meat of the rule is in the effect it gives a signature. Certiorari would give that meaning.

The CSA's opinion is legally inept and unduly influential.[11]

Moylan, J. may have forgotten he is no longer State's Attorney and now represents the Maryland Judiciary. This would explain why his lazy appellate opinion reads more like a jury argument. Nevertheless, the unreported opinion has received more public notice than most reported appellate decisions. *See* **Exhibit Q**, which appeared on page A5 of the Sept. 23 *Capital* under the headline "Court rejects defamation appeal." Tim Pratt likely does not appreciate what may or may not be cited under the rule of *stare decisis*, or that when the CSA doesn't want to follow the law it may simply do whatever it pleases and put the results in an unreported opinion. The public accepts what the CSA says as reputable legal authority.

The CSA's sanction of the Respondents' unprofessionalism will thus add to an already recurring problem. Note that while they are wrong in their endorsement of Judge Lamasney's misapplication of the fair report privilege, their basis for affirming was the element of falsity. As explained in the part of Petitioner's brief the CSA skipped over, republishing a statement is the same as making the statement. Since they believe any lawyer would disagree, there is clearly a lot of confusion. Certiorari should issue.

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[10] *Ungar* also features a pro se petitioner. Two others have since appeared before this Court. *See* *Finucan v. Board of Physicians*, 380 Md. 577 (2004) (affirming revocation of pro se doctor's license for "immoral conduct"); *Taylor v. Mandel*, 402 Md. 109 (2007) (reversing assessment of guardian ad litem fees against pro se grandmother). *See also* *Ferrell v. Benson*, 352 Md. 2 (1998) (summary reversal for pro se petitioner after CSA dismissed appeal); *Kant v. Montgomery County*, 365 Md. 269 (2001) (same).

[11] Judge Moylan's cry of "anguish" is a cry for help that only this Court can answer. While the relation back issue cannot be dispositive because it has no bearing on the invasion of privacy count, *see* *Allen v. Bethlehem Steel Corp.*, 76 Md. App. 642 (1988) (three year statute of limitations), the CSA's uncertainty calls for certiorari.

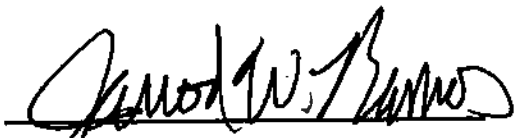
Journalists are confused also. *See* **Exhibit R** (Hartley: "So by quoting it, *I'm* not saying [it]. I am saying that someone else said those words."). This ignorance may have created a false sense of security when the Respondents maliciously defamed yet another attorney. Reporting this Court's opinion in *Attorney Grievance v. Tanko*, 408 Md. 404 (2009), the Respondents wrote Tanko had been "suspended for lying." While the Commission accused Tanko of lying, the Court held he had not. There are no newspaper articles about the lawsuit Tanko filed; *The Capital* never printed his name again.

The Respondents don't just oppose certiorari; they fear it.

Consider why the Respondents put more effort into opposing certiorari than writing their appellee's brief. Consider why they raised *Greff* when it would simply justify certiorari if *Greff* wasn't already bad law in light of Rule 8-414 itself. Consider why they even opposed certiorari at all.

This Court can grant certiorari confident it will receive a record evidencing an attorney who should be disbarred for lying and respondents who are complicit in that lying. It is actually quite generous to say the CSA simply "erred." This case features not only an attorney who lied with impunity, but multiple judges of this state's second-highest court lying to protect him and his clients, who are also liars. If this is how the Maryland Judiciary operates, the law now means nothing. If preventing that is not in the public interest then I don't know what is.

Respectfully submitted,



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MARYLAND JUDICIARY

Date Printed :04/23/2014
Circuit Court For Prince George's County, Maryland

Civil Case Summary

Case No: CAL12-22839

Case Description: Ramos vs Hartley
Case Status: CLOSEDS
AOC Case Type: Tort
Civil Case Type: Damages/Other Tort
Filing Date: 07/23/2012

Docket Entries

DCM Track: 9
Try By Date:

Related Cases

Related CaseId

Parties

Party ID	Party Name	Party Code	End Date
DO0747	Douglas, Robert C	ATT	
SH3846	Shirley, W Zak	ATT	
@2559131	Capital Gazette Communications Inc	DEF	
@2559133	Capital Gazette Communications LLC	DEF	
@2559128	Hartley, Eric Thomas	DEF	
@2559129	Marquardt, Thomas Lee	DEF	
@2559127	Ramos, Jarrod W	PLA	

Judgments

Amount	Name	Filing Date	Status	Last Active Date

Events

Schedule Date	Schedule Event	Closing Docket	Docket Date	Judge
02/15/2013	Motions Hearing	Motions Hrg Cont/Prior to Crt	02/04/2013	Maureen M Lamasney
03/29/2013	Motions Hearing	Motions Hearing Held	03/29/2013	Maureen M Lamasney
11/15/2013	Try By Date	Civil Try by Date Complied	04/03/2013	

EXHIBIT A

Civil Case Summary

Docket Activity

Date	Docket Entry	User
07/23/2012	Complaint, Fd. 001 Preliminary Complaint to Preserve Claim in the Circuit Court of Maryland for Prince Georges County 073012 mec	MEC
07/23/2012	CaseType: Damages/Other Tort	MEC
07/23/2012	Plaintiff"s Information Sheet 002 07302012 mec (tagged for Mittelstaedt)	MEC
07/30/2012	Summons Issued For Defendant 003 Four summonses issued mec	MEC
10/09/2012	Line To Re-Issue, Filed. 004 fd. all four defs kbp e 10-22-12	KBP
10/10/2012	Line, filed 005 fd. Pla's supplemental AFFID kbp e 10-22-12	KBP
11/07/2012	Sheriff Return of Service Fd. 008 djg Unable to service Capital Communications Inc., at The Corporation Trust, Inc. Bonnie Hartman of Corporate Operations Specialist advised that the company merged and was no longer in service. Dfc. Green Til #9683/0282 on 10-25-12 (attached Pla.'s Supplemental Affidavit and all other documents and exhibits) e11-29-12	DGO
11/07/2012	Sheriff Return of Service Fd. 006 djg Served Summons on Thomas Lee Marquardt on 10-26-12 by Dfc. J. Rickard #0133 e11-29-12	DGO
11/07/2012	Sheriff Return of Service Fd. 007 djg Svd. Capital Gazette Communications LLC by serving Regina Lynch, The Corporation Trust, Inc., Res. Agent on 11-02-12 by Dfc. Clyde Day #9698 e11-29-12	DGO

Civil Case Summary

11/26/2012	Motion To Dismiss, Fd. 009 djg Motion by Defendants to Dismiss with Prejudice the Complaint and Request for Hearing with attached Memorandum in Support of Motion to Dismiss with Prejudice the Complaint under Maryland Rule 2-322 and exhibits. (Judge Lamasney) e11-29-12	DGO
11/27/2012	Line To Re-Issue, Filed. 010 djg Line to Renew Summons for Capital-Gazette Communications, Inc. The resident agent was no longer located at the address I provided. This.address was obtained from the Maryland Dept. of Assessments and Taxation. Please Issue to the Sheriff of Anne Arundel County, 2000 Capital Drive, Annapolis, MD 21401. Service may be made upon Thomas Lee Marquardt or any of the following: Pat Richardson, Charles Feeney, Loretta Haring, Mark Barebo, or Rob Pryor. e11-29-12	DGO
11/29/2012	Certified Copies, fd 014 djg Letter requesting a certified copy of court records (attached) from case number CAL12-22839. The desired records are the Baltimore City Sheriff's Office's Return of Non-Served Process for Def., Capital-Gazette Communications, Inc. Please provide the full process returned by the Sheriff and attached. e12-17-12	DGO
11/29/2012	Summons Re-Issued For Def, fd 011 djg Reissued the Writ of Summons for Def., Capital-Gazette Communications, Inc., at the address provided and attach all of the documents herein. e11-29-12	DGO
11/29/2012	Summons Re-Issued For Def, fd 013 djg Reissued Writ of Summons for Def., Capital-Gazette Communications, inc. to be served by Anne Arundel Sheriff's Office, 7 Church Circle, #400, Annapolis, MD 21041. The remainder of the Line is the same for the persons that are authorized to accept service. e11-29-12	DGO
11/29/2012	Line To Re-Issue, Filed. 012 djg Corrected Line to Renew Summons - Change in Address need to be done and docketed. e11-29-12	DGO
12/11/2012	Opp To Mot To Dismiss, Fd. 021 djg Pla.'s Opposition to Dismissal and Motion for Grievance, Contempt, Sanctions and Default (Judge Lamasney) e12-20-12	DGO
12/12/2012	Affidavit of Service, fd	DGO

Civil Case Summary

	015 djg Svd. Eric Thomas Hartley by substitute John Smith, Co-Tenant at 320 E. Lemon Ave., Monrovia, CA 91016 after multiple attempts on attached sheets. On 11-18-12, served to individual who stated that his name was John Smith, but process server was shown a picture of Eric Thomas Hartley. She confirmed that the person in the picture was in fact the person she served. (Personal service was made on Eric Thomas Hartley) e12-17-12	
12/14/2012	Def Information Sheet, Filed. 019 djg Case Def. Information Report for Eric Thomas Hartley e12-20-12	DGO
12/14/2012	Def Information Sheet, Filed. 017 djg Def., Case Information Report for Capital-Gazette Communications, Inc. e12-20-12	DGO
12/14/2012	Certificate of Service Fd. 016 djg copies of Case Information Reports for Defs. e12-20-12	DGO
12/14/2012	Def Information Sheet, Filed. 018 djg Defendant Case Information Report for Capital-Gazette Communications, LLC e12-20-12	DGO
12/14/2012	Def Information Sheet, Filed. 020 djg Def., Case Information Report for Thomas Lee Marquardt e12-20-12	DGO
12/18/2012	Sheriff Return of Service Fd. 022 djg Svd. Thomas L. Marquardt, Editor and Publisher, of Capital Gazette Communications, Inc., with Writ of Summons at 200 Capital Drive, Annapolis, MD, on 12-06-12. Sheriff No. 7153 Anne Arundel County Sheriff's Office e12-20-12	DGO
01/18/2013	Mot For Default Judgment, Fd. 023 Pla's supplemental Motion for Default, fd/jsf e 1-23-13 (Lamasney) (tagged for Northrop)	JSF
01/18/2013	Line Entering Appearance, Fd.	JSF

Civil Case Summary

	024 enter Robert C. Douglas, atty for Def's eric Thomas Harley, Thomas Lee Marquardt, and Capital Gazette Communications, fd/jsf e 1-25-13 (Lamasney)	
02/04/2013	Motions Hrg Cont/Prior to Crt ^909^ Non Articulated Reason	JLJ
02/26/2013	Notice of Discovery 025 fd/jsf E 2-28-13 (Lamasney)	JSF
03/22/2013	Reply, filed 027 Def's response to Plas' Opposition to Motion to Dismiss, Motion for Grievance, Contempt, Sanctions and Default; and supplemental Motion for Default, fd/jsf e 3-27-13 (Lamasney)	JSF
03/22/2013	Line Entering Appearance, Fd. 026 enter W. Zak Shirley atty for Def's Eric Thomas Hartley, Thomas Lee Marquardt and Capital Gazette Communications, fd/jsf e 3-27-13 (Lamasney)	JSF
03/25/2013	Notice of Discovery 028 notice of Def;'s service of discovery responses, fd/jsf e 3-27-13 (Lamasney)	JSF
03/29/2013	Motions Hearing Held motion granted case cs.	JLJ
04/01/2013	Notice of Hearing, filed 030 emp notice of hearing 03-29-13, fd 04-03-13	EMP
04/01/2013	Notice of Hearing, filed 029 emp motion hrg on 02-15-13, fd 04-03-13	EMP
04/01/2013	Inter-Office Memorandum, fd 031 emp memo dated 02-04-13 Judge Lamasney Chambers remove case from Judge Lamansey's docket on 02-15-13, fd 04-03-13	EMP
04/02/2013	Letter, filed.	EMP

Civil Case Summary

	032 emp Letter dated 12-11-12 to Judge Lamasney Chambers from Jerrod W Ramos seen in chambers on 03-29-13	
04/03/2013	Civil Try by Date Complied	EMP
04/03/2013	CaseDisp: Dismissed	EMP
04/03/2013	Civil Case Closure Form, Fd. 035 emp	EMP
04/03/2013	Civil Judgment Sheet, fd 034 emp Judgment dated 03-29-13 Judge Lamasney, ordered that the complaint is dismissed without leave to amend, costs are assessed against the pla.,fd cc toramos and hartley	EMP
04/03/2013	Civil Daily Sheet, Filed 033 emp d/s dated 03-29-13 def motion to dismiss -a rgued Judge Lamasney Ms Burrell reporter motion - granted with prejudice case closed statistically letter from pla dated 12-11-12 filed, fd	EMP
04/15/2013	Motion to Amend Judgment, fd. 035 ljs,e4-25-13	LJS
05/06/2013	Reply, filed 036 Def's response to Pla's Motion to Amend Judgment, fd/jsf e 5-21-13 (Lamasney)	JSF
08/05/2013	Motion, filed 037 Motion for Judge Lamasney to call a hearing, as urged by all parties on the outstanding post-judgment Motion, fd/jsf e 8-19-13 (Lamasney)	JSF
08/21/2013	Letter To Judge, Fd. 038 ljs,e8-26-13 (Lamasney)	LJS
12/12/2013	Civil Case Closure Form, Fd.	EMP

Civil Case Summary

	040 emp	
12/12/2013	Order of Court, filed 039 emp order of coutrt dated 12-09-13 Judge Lamasney, ordered that pla motion to amend the judgemtn is DENIED and pla motion for grievance contempt sanctions and default are DENIED and ded motion to disiss the complaint with prejudice is GRANTED and that the judgment dismissing the complaint with prejudice be amended to reflect the following grounds for dismissal failure to plead facts sufficient to satisfy any of the legal elements of defamation and false light under md rule 2-303, defamation and fault,harm,falsity, failure to file in July 2012 a sufficient and legal complaint under MD rule 2-303 and filing in 10-2012 an untimely claim for defamation, fd cc to douglas and ramos	EMP
12/12/2013	CaseDisp: Dismissed	EMP
01/13/2014	Affidavit, Fd. 043 Pla's Affidavit in Support of Disqualification of Judge Lamasney by a Maryland Appellate Court, fd. mlw e 1/27/14 (Appeals)	MLW
01/13/2014	Notice of Appeal, filed 041 Notice of Appeal filed by the Plaintiff. Paid: $110.00 Date: 1/29/2014 Receipt: 97095 fd/smb PHC given	SBR
01/14/2014	Copy of Clerks Letter 042 Copy of clerks letter. fd/smb	SBR
02/04/2014	Order to Proceed WO Pre Conf 044 Order to proceed. Due to the court of special appeals 3/31/2014. fd/smb	SBR
02/07/2014	Request for Tape Transcript Fd 045 Request for transcript of proceedings for 3/29/2013. fd/smb	SBR
02/11/2014	Line, filed 046 Line to Immediately Send Motion to Judge,fd.acc	ACC
02/11/2014	Motion, filed 047 Motion to Correct the Record, with request for hearing,fd.acc e 2/19 (sent to Judge Lamasney)	ACC
03/18/2014	Letter, filed.	SBR

Civil Case Summary

	048 a "Clarification" regarding Notice of appeal. fd/smb	
04/08/2014	Order of Court, filed 048 emp Order of Court dated 04-01-14 Judge Lamasney, ordered that moto to correct the record is DENIED, fd cc to ramos,douglas	EMP
04/18/2014	Certificate of Service Fd. 049 certificate of service filed with a copy of a transcript dated for 3/29/2013. fd/smb	SBR

Columns are not fair. This has come through via requests for admissions that I submitted to the defendants. They have admitted that Eric Hartley wrote those words.

They have admitted that his column appeared in the newspaper, as he said, with a logo that included his picture. The fair report privilege is not applicable to that column. The fair report privilege went down the drain for them.

THE COURT: All right. Mr. Ramos, I'm going to grant the defendant's motion to dismiss this case. And it will be dismissed with prejudice. And I'm going to grant it for the following reasons: You are required in your complaint to state a claim with sufficient specificity.

MR. RAMOS: Your Honor --

THE COURT: I'm talking now.

MR. RAMOS: Yes, I'm sorry.

THE COURT: And dismissal is proper only if the facts and inferences, even if proven, would not entitle the plaintiff to relief. And that is what I am finding in your case, that you do not lay out a prima facie case for defamation or for invasion of privacy, or being placed in the false light.

And the reason I'm finding that is that there

is absolutely not one piece of evidence, or an assertion by you that the statement was false.

The one statement you refer to concerning the rambling and referring to messages that you answered when there had been no contact comes directly from the statement of charges, where she writes, most of his messages are just pages of ramblings regarding my friends, family, job, Rotary Club involvement.

And it goes on to say that you tell her to leave you alone, and you haven't responded for months. That comes right out of a public document.

You know, I understand exactly how you feel. I think people who are the subject of newspaper articles, whoever they may be, feel that there is a requirement that they be placed in the best light, or they have an opportunity to have the story reported to their satisfaction, or have the opportunity to have how ever much input they believe is appropriate.

But that's simply not true. There is nothing in those complaints that prove that anything that was published about you is, in fact, false.

It all came from a public record. It was of the result of a criminal conviction. And it cannot give rise to a defamation suit.

MR. RAMOS: Your Honor, if I may say one more

thing?

THE COURT: Go ahead.

MR. RAMOS: I would add that the public record from which that statement came from, was not even identified in the column, there was nothing to lead a reader to understand where that statement was taken from.

THE COURT: I understand that, but that does not make it false.

MR. RAMOS: But it makes it unfair.

THE COURT: I'm sorry, but I am going to dismiss your suit with prejudice.

MR. RAMOS: And Your Honor, that is only one statement. There are a number of other statements.

THE COURT: Well, I just referred to the one that you referred to, and I think I put on the record that there is nothing that you have alleged that was false, so I'm going to grant the motion, sir.

MR. RAMOS: If I understand correctly, then the basis is that there's not a showing of falsity?

THE COURT: Correct.

MR. RAMOS: And rather that there is an application of privilege.

THE COURT: Correct, both that the article was simply not defamatory, that it was based on public

record, that you haven't alleged that it was false, and that the article appears to be substantially accurate, and it would fall into the privilege which would make any complaint unsustainable, because they reported a criminal case. They reported a matter of public interest.

I understand it was not reported to your satisfaction, but you haven't shown any actual malice that would overcome this privilege.

MR. RAMOS: Well, malice is an entirely separate issue. Under the privilege, the only question when it comes to fair report privilege is, was the article fair and accurate. Those are two separate tests, tests of fairness, by Mr. Hartley's own admission, it fails.

THE COURT: Thank you very much.

MR. DOUGLAS: Thank you, Your Honor.

THE COURT: Thank you once again, Mr. Ramos. I'm sorry you had to wait so long.

MR. DOUGLAS: I do want to thank you and Mr. Ramos for understanding the situation with my wife with a broken ankle.

MR. RAMOS: When you say dismissed with prejudice, that does not obstruct my right to appeal?

THE COURT: Oh no, of course not. You have an

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

Jarrod Thomas
Plaintiff(s)

VS **CAL12-22839**
Eric Thomas Hartley
Defendant(s)

JUDGMENT

This matter having been decided by:

☒ **A judge;**

☐ **A jury verdict,**

with Judge Lamasney presiding, it is this 29th day of March, 2013

ORDERED AND ADJUDGED that:

☒ **The complaint is dismissed without leave to amend.**

☐ **judgment is granted in favor of**

And against

☐ **in the sum of $**

☐ **all relief is denied.**

☒ **Costs are assessed against the the Plaintiff**

Marilynn M Bland
CLERK OF THE COURT #85 by 491 ej

AOC-CC-302
(5/98)

FILED 4-3-13

EXHIBIT C

EITED

34E

052

IN THE CIRCUIT COURT
FOR PRINCE GEORGE'S COUNTY

JARROD W. RAMOS Plaintiff, vs. ERIC T. HARTLEY, *et al.* Defendants.	Case No. CAL-12-22839

ORDER DENYING PLAINTIFF'S MOTION TO AMEND THE JUDGMENT AND RELATED MOTIONS AND GRANTING MOTION BY DEFENDANTS TO DISMISS WITH PREJUDICE THE COMPLAINT

Upon consideration of the Motion by Plaintiff to Amend the Judgment and any response thereto, it is this 9 day of December, 2013, by the Circuit Court for Prince George's County hereby

ORDERED, that the Plaintiff's Motion to Amend the Judgment is hereby DENIED; and

ORDERED, that the Plaintiff's Motions for Grievance, Contempt, Sanctions, and Default are hereby DENIED; and

ORDERED that Defendant's Motion to Dismiss the Complaint with Prejudice is GRANTED; and

ORDERED, that the judgment dismissing the Complaint with Prejudice be amended to reflect the following grounds for dismissal:

✓ 1. Failure to plead facts sufficient to satisfy any of the legal elements of defamation and false light under Md. Rule 2-303:

✓ (a) defamation;

✓ (b) fault;

12/12/13

EXHIBIT D

LC 39E

(c) harm; and

(d) falsity

2. Failure to file in July 2012 a sufficient and legal complaint under Md. Rule 2-303; and

3. Filing in October 2012 an untimely claim for defamation.

SO ORDERED.

Judge Lamasney
Circuit Court for Prince George's County

cc: Robert C. Douglas
W. Zak Shirley
DLA Piper US LLP
The Marbury Building
6225 Smith Avenue
Baltimore, MD 21209

Jarrod W. Ramos
402 Armstrong Court
Apartment B
Laurel, MD 20707

JARROD W. RAMOS	*	**In the CIRCUIT COURT of MARYLAND for**
v.	*	**PRINCE GEORGE'S COUNTY**
ERIC THOMAS HARTLEY, et al.	*	**Case No. CAL12-22839**

ORDER

Having considered the Motion to Correct the Record, any response filed, and any evidence and argument presented in open court, it is on this _____ day of March 2014, by the Circuit Court for Prince George's County,

ORDERED that the certified copy of court records printed on December 17, 2012 and mailed by the Clerk of this Court to Jarrod W. Ramos on December 21, 2012 shall be filed in the above-captioned action. It is further

ORDERED that the record shall reflect said filing includes the original documents missing from docket item number 008.

_____
Judge of the Circuit Court

ENTERED 3.8.14

EXHIBIT E

48 E

JARROD W. RAMOS	*	**In the COURT OF SPECIAL APPEALS of MARYLAND**
v.	*	
ERIC THOMAS HARTLEY, et al.	*	**No. 2281 September Term, 2013**

Motion to Substantively Correct Record and to Stay Filing of Briefs Pending Correction

After this Court ordered the above-captioned appeal to proceed, I, the appellant-plaintiff, filed a Motion to Correct the Record in the trial court (docket item ["D"] 047, indexed page ["I"] 95). While that motion was unopposed after the appellees' time to respond had expired, Judge Lamasney denied the motion without explanation (D 048, I 100). Subsequently, but before the order's entry, the appellees filed a response to the motion combined with a Motion for Clarification (D 048B[1]). I provided a Clarification (D 048 a[2], I 98). Pursuant to Rule 8-414, this motion poses the following questions:

1. Did Judge Lamasney abuse her discretion by denying the Motion to Correct the Record without the requested hearing and without any exhibited consideration?
2. Did the trial court transmit a record that inaccurately discloses a proceeding?
3. Can this Court properly conduct the fact-finding necessary to grant this motion, and what is the correct appellate procedure for resolving the motion?

Certified Statement of Facts

On January 30, 2014, this Court ordered this appeal to proceed. I filed my Motion to Correct the Record on February 11. The motion concluded with a request for a hearing during the first week of March, stating this would avoid disruption of the record's timely transmittal without depriving the defendants of a fair chance to file a response. To aid in scheduling, I also filed a Line to Immediately Send Motion to Judge (D 046, I 94).

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[1] The record was transmitted before the appellees' paper was docketed. A separate motion to correct that omission in the record is filed concurrently with this paper.

[2] The docket entry incorrectly states my Clarification was filed on March 18, 2014. I filed it on April 18 with a corresponding certificate of service. My certificate of service of the transcript, also filed on April 18, mistakenly states the March 18 date.

The motion cited Rule 8-413(a) and alleged part of docket item 008 (I 18), an unserved process returned by the sheriff, was missing. Supported by my affidavit, it described how I purchased a certified copy of that docket item from the clerk. It also stated that by mail to my home I later received what purports to be a second certified copy of the same records, but is actually the original papers submitted for service. The motion described characteristics of the papers inconsistent with copies, including ink of signatures on the reverse page side. The motion detailed the involved clerk's expressed error-proneness amid concern for her ailing mother. My later Clarification summarized:

- I have a certified copy of docket item number 008 as it existed on November 29, 2012.
- The contents of that certification are as listed in the letter of docket item number 014 [(I 25)].
- In its present state, docket item number 008 only includes the returned writ of summons and a copy of exhibits B through O of my complaint.
- The discrepancy between these two versions of the record directly corresponds to the contents of documents mailed to me as certified copies on December 21, 2012.
- The second set of certified copies includes original documents erroneously removed and now missing from the case file.

The motion swore I did not raise this matter sooner because I had intended to do so at anticipated hearings that never materialized. Additionally, while the motion did not explicitly say so, I was not certain the missing documents had not been replaced with copies until I examined the record on January 13, 2014. I considered this a possibility, particularly after I did raise this matter off the record on January 18, 2013. On that date I filed in person a Supplemental Motion for Default (D 023). I also presented the certified copies to a clerk, explained this matter as above, and stated I wished to ensure the integrity of the record. The clerk telephoned Judge Lamasney's chambers and confirmed, referencing docket entry 008, the record contained Plaintiff's Supplemental Affidavit. I then decided and stated to the clerk I would follow up during the scheduled hearing.[3]

[3] A hearing of anticipated quality (i.e. meaningful, fair, or professionally conducted) never materialized on March 29, 2013. See note 5.

The motion finally stated this matter relates to a fraud allegation against the defendants and their counsel I will present as an issue in this appeal. On February 19, 2014, the motion was docketed and sent to the chambers of Judge Lamasney. With no response from the defendants, Judge Lamasney denied the motion on April 1 by signing and dating my proposed order but adding the word "denied." The record evidences no other related action by Judge Lamasney. She provided no opinion nor took any action to modify the record. No hearing was ever held on the motion.

Judge Lamasney's order was entered on April 8. On April 4, the defendants filed a Motion for Clarification and Response to Plaintiff's Motion to Correct the Record. On page 1, Eric Thomas Hartley et al. represented, "Plaintiff's Motion seems to contend that Exhibits B through O of his complaint are missing from the Court's file, however the identity of other purportedly missing documents is unclear." They complained my motion did not include copies of cited documents. At no time prior to filing their paper did defense counsel contact me and request a description or copies of any documents.

The defendants argued my motion "fails to state the contents or subject matter of the documents" and requested an order that I file three categories of papers. To "assess the authenticity of [my] claims," the defendants demanded copies of (1) "the alleged original court documents in [my] possession," (2) "Docket Entry No. 8" and (3) "the documents purportedly missing from the court file." *Id.* at 2. They did not try to explain how categories 1 and 3 are distinguishable or how it is helpful to provide a court with copies of its own existing record.

The defendants also argued my motion was "unsupported by any evidence." *Id.* They did not try to explain why certified copies of court documents do not constitute evidence. They also countered, "Plaintiff's Motion does not include an affidavit or affirmation from a court clerk."[4] *Id.* at 3. They requested Judge Lamasney deny "at this time" (*Id.* at 4) my motion, deny a hearing, and order I provide fourthly an explanation of

[4] While his declaration is open to interpretation, signing attorney Shirley identifies as "a fan of 'verbal efficiency'" suffering "bothers" with divergent conduct. *Available (for now) at* https://www.facebook.com/photo.php?fbid=10100231229181662, 15 Feb. 2012.

how to effect the record's correction. They lastly posed my motion was improper and untimely, as I had not earlier sought correction of the record. They noted a judgement was entered, and then observed my motion did not relate to the trial court's judgement.

I filed Clarification on April 18, reminding the trial court of its duties given the procedural posture of this case. In addition to summarizing my motion, Clarification asserted the defendants' Motion for Clarification was intended for a "stupid" audience, was striving to "further lead [Judge Lamasney] by the nose," and betrayed dishonesty by being belatedly filed two months after the motion allegedly needing clarification.

Appellant's Affidavit

I solemnly affirm under the penalties of perjury that the contents of the foregoing paper are true to the best of my knowledge, information, and belief.

So sworn,

(signature on original)

Jarrod W. Ramos

Argument

Judge Lamasney abused her discretion by failing to exercise it. Even if she did exercise discretion, she would have to abuse it to deny my motion unless I am unable to supply the certified documents I have promised. In her stead and under the facts of this case, this Court has the authority to grant the Motion to Correct the Record either without or after a hearing. The latter is not necessary, however, as the motion is not subject to reasonable dispute. Indeed, a consequence of the defendants' evasion of facts and issues in the trial court is waiver in this one. Finally, until the substantive composition of the record is settled, this Court should stay filing of briefs and the record extract.

"The abuse of discretion standard requires a trial judge to use his or her discretion soundly and the record must reflect the exercise of that discretion." *Campbell v. State*,

373 Md. 637, 665-6 (2003). "There is no requirement that the trial court's exercise of discretion be detailed for the record so long as the record reflects that the discretion was in fact exercised." *State v. Woodland*, 337 Md. 519, 526 (1995). The record here reveals a refusal to exercise discretion. Not only did Judge Lamasney withhold the rationale behind her order, but she gave no indication of an actual ruling. She simply sat on my motion until the transmittal of the record was finally overdue and then released it.[5]

Judge Lamasney effectively did not deny the motion; she chose to decide nothing. Rule 8-413(a) requires the trial court to "cause the record to conform to its decision." If Judge Lamasney determined the record does accurately disclose the contents of the returned process, she was obligated to reconcile this with the case docket. There is no Plaintiff's Supplemental Affidavit remaining in docket item 008, yet the docket entry explicitly says there is. Even if Judge Lamasney did find I attempted to cause service of a process comprised solely of exhibits B through O of my complaint, such a ludicrous holding on my unopposed motion would still be an abuse of discretion.

The record is internally inconsistent, and my unopposed affidavit explained how this arose. The affidavit proffered documents in support of that explanation. It proffered documents certified by the clerk that elucidate the inconsistency. The defendants did not oppose any of this; they did not even respond. Rule 2-311(b) requires any response shall be filed within 15 days. Rule 1-203(c) provides an extra 3 days to compensate for mail delivery time. Having never sought an extension of their deadline, the defendants responded 52 days after my motion was filed. While the motion requested a hearing, it was not dispositive of a claim or defense. It therefore could have been granted in reliance of my affidavit and without a hearing, particularly given the defendants' waiver.

The unconsidered response filed by the defendants is frivolous and reinforces their waiver in this Court. The defendants made a strategic decision to ignore my proffered documents and affidavit to advance their misleading assertion these things do not exist. "Plaintiff's Motion does not include an affidavit [from anyone] or affirmation from a

[5] I am not implying anything. Judge Lamasney did this deliberately, intending to cause this appeal to be dismissed. Her disqualification will be an issue presented in my brief.

court clerk" is the non-redundant and intended interpretation of what Mr. Shirley signed his name to.[6] It is the interpretation consistent with a claim the motion is "unsupported by any evidence." This motion can thus also be granted by this Court without a hearing.

The defendants' untimely timeliness argument has no merit pertaining to my own motion. Rule 8-413(a) is precisely applicable during the period between the filing of a notice of appeal and the transmittal of the record. The defendants admit my motion was not an attempt to disturb the entered judgement. The motion was filed within the same deadline for ordering of the transcript. With a particularized request for a hearing and a separate notice to speed the motion along, I diligently supported an orderly appellate process. That is the very reason I even raised the issue at all. I could have proceeded to brief this Court on my fraud allegation against the appellees and their counsel, played dumb like the appellees and their counsel, and left the Court to uncover the discrepancy in the record on its own. It also should not go unnoticed that the inaccuracy of the record would have come to light much sooner if Judge Lamasney had—to put it bluntly—done her job in this case. In her silence, she also declined to dispute her ignorance of the issues that were before her on March 29, 2013. *See* Motion to Correct the Record, ¶ 5.

While it appears there is no previous instance of such a material application of Rule 8-414, this motion is proper. *See* *Mosley v. State*, 378 Md. 548, n. 15 (2003) (noting that while "an appellate court is not a trier of fact," this does not limit explicit authority established by Rule 8-414). 8-414(b), which includes the word "alleged," contemplates this Court resolving factual disputes pertaining to the accuracy of the record. The rule does not suggest *de novo* consideration of a Rule 8-413(a) motion, nor should this Court depart from well-settled standards of review, however the trial court here deserves no deference because it made no factual findings. An evidentiary hearing is permissible.

But there is no need for a hearing because there is no factual dispute. My motion sets forth *prima facie* grounds for correcting the record, and is supported by evidence the appellees have waived any opposition to. Their motion for copies of documents was

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[6] The Court of Appeals has suspended an attorney 60 days for condoning misleading statements with hope they "slip by" a court. *Grievance v. Tanko*, 408 Md. 404 (2009).

unconstructive because (1) copies of each already exist elsewhere in the record and (2) only certified copies are authentic under § 10-204 of the Courts Article—not copies of certified copies.

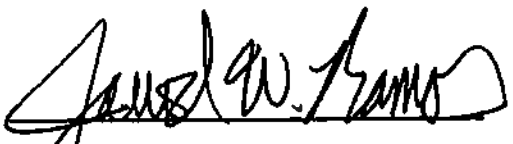
In fairness, a hearing is the only way to exhibit the documents in my custody and to be restored to the record. This is one reason the Court may desire a hearing. However, if the appellees are still to be permitted an opportunity to inspect the documents, I insist it be in the presence of a judge. A correct docket entry 008 is smoking gun evidence by which the appellees and their counsel still face potential criminal as well as civil liability.[7] I consider nothing to be beneath them, and indeed their sought "clarification" was a ploy to contaminate the record and manufacture reasonable doubt.

Finally, because the disposition of this unique motion impacts the presentation of issues in this appeal, and also dictates the composition of the record extract, I request a stay of the filing of briefs.

Conclusion

Part of docket entry 008 is missing from the record. This Court has the power to correct that error, and should do so. I stand ready to provide the missing papers as the Court sees fit, but do not turn your backs on the appellees or their counsel. Brace yourselves, Your Honors, for the worst you will see of them is yet to come. Before that ensues, however, filing of briefs should be stayed pending resolution of this motion.

Respectfully submitted,



Jarrod W. Ramos
402 Armstrong Court, Apt. B
Laurel, MD 20707
301-604-4877

[7] Not only was their fraud scheme contemptuous of the dignity and authority of the court, but also an agreement to knowingly swear to corruptly false testimony of material fact. There is no statute of limitations for perjury, nor conspiracy to perpetrate the same. In addition, I now consider Mr. Douglas to be a joint tortfeasor.

IN THE COURT OF SPECIAL APPEALS
FOR MARYLAND

JARROD W. RAMOS Appellant, vs. ERIC THOMAS HARTLEY, *et al.* Appellees.	Case No. 02281, September Term, 2013

APPELLEES' RESPONSE TO
APPELLANT'S MOTION TO SUBSTANTIVELY CORRECT RECORD
AND STAY FILING OF BRIEFS PENDING CORRECTION
AND
APPELLANT'S MOTION TO ADMINISTRATIVELY CORRECT RECORD

Robert C. Douglas
W. Zak Shirley
DLA PIPER LLP (US)
The Marbury Building
6225 Smith Avenue
Baltimore, MD 21209-3600
Telephone: 410.580.3000
Facsimile: 410.580.3001

Attorneys for Appellees

Appellees Eric T. Hartley, Thomas L. Marquardt, and Capital-Gazette Communications, LLC (collectively "Appellees"), by their undersigned counsel, submit this Response to both the Motion to Substantively Correct Record and Stay Filing of Briefs Pending Correction and the Motion to Administratively Correct Record filed by Appellant, Jarrod W. Ramos ("Appellant") and state:

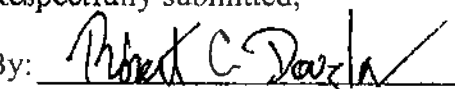
1. On May 27, 2014, Appellant filed a Motion to Substantively Correct Record and Stay Filing of Briefs Pending Correction, as well as a Motion to Administratively Correct Record. These motions once again requested the addition of a number of pages to the Record.

2. Appellees remain uncertain which documents Appellant wants to add to the Record. However, the Appellees fully support the filing of a Record that accurately reflects the proceedings that took place in the Circuit Court. Appellees' only concern is that there be proper verification that any new material added to the Record was part of the Record in the Circuit Court.

3. As such, the Appellees defer to the discretion of this Court regarding how to properly address Appellant's requests and to ensure that an accurate and comprehensive Record is available for appellate review.

Respectfully submitted,

Dated: June 16, 2014

By: 

Robert C. Douglas
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Attorneys for Appellees

JARROD W. RAMOS	*	**In the COURT OF SPECIAL APPEALS of MARYLAND**
v.	*	
		No. 2281
ERIC THOMAS HARTLEY, et al.	*	**September Term, 2013**

Clarification, Part II

On May 27, 2014, I filed two motions to correct the record. Pursuant to Rules 8-431(b) and 1-203(c), any response was due by June 6. On June 16, the appellees again filed their response without any request to excuse their untimeliness.

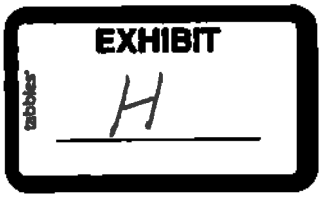
They now purport to "fully support … a Record that accurately reflects the proceedings" and that their "only concern is that there be proper verification" of any corrections to the record. If this was true they would not have belatedly requested Judge Lamasney deny a hearing of my original motion to correct the record, nor fed her a proposed order that I file three sets of duplicative documents. Their concern is avoiding perjury convictions and a massive punitive civil judgement, supported by the fact they conducted themselves in court with the same sense of entitlement and complete disregard for truth that caused them to be sued. Yes they do think you are stupid and beneath them.

I remind the Court the appellees have waived any meaningful response or opposition to my motions, including at any prospective hearing.

Respectfully submitted,

(signature on original)

Jarrod W. Ramos
402 Armstrong Court, Apt. B
Laurel, MD 20707
301-604-4877



JARROD RAMOS,	*	IN THE
	*	COURT OF SPECIAL APPEALS
Appellant,	*	OF MARYLAND
v.	*	SEPTEMBER TERM, 2013
ERIC HARTLEY, ET AL.,	*	NO. 2281
Appellees.	*	(cc# CAL1222839)

* * * * * * * * * * * * * *

ORDER

Appellant has filed a Motion to Administratively Correct Record, Motion to Substantively Correct Record and to Stay Filing of Briefs Pending Correction. Appellees have filed a response to both motions. It appears from the record that the papers Appellant requests be added to the record are, in fact, in the record on appeal. Accordingly, it is this 16th day of April 2015, by the Court of Special Appeals,

ORDERED that the Motion to Administratively Correct Record and the Motion to Substantively Correct Record be and hereby are denied; and it is further

ORDERED that Appellant's brief shall be filed on or before June 1, 2015; and it is further

ORDERED that Appellees' brief shall be filed on or before August 1, 2015; and it is further

ORDERED that the above-captioned appeal shall be scheduled in the September Session of this Court.

(CHIEF JUDGE'S SIGNATURE APPEARS ON ORIGINAL ORDER)

Peter B. Krauser, Chief Judge

EXHIBIT I

JARROD W. RAMOS	*	**In the COURT OF APPEALS of MARYLAND**
v.	*	**Pet. Docket No. _____**
ERIC THOMAS HARTLEY, et al.	*	**September Term, 2015**

Petition for Writ of Certiorari

Granting this petition is in the public interest because it presents two issues of first impression, one of which—like attorney disciplinary sanctions—relates to the public's confidence in the Maryland Judiciary. Upon accepting this case the Court would be asked to adopt the following rule: If, by clear and convincing evidence, a meritless motion to dismiss is also fraudulent, and the defendant is complicit in that fraud, then it is an abuse of discretion to *not* strike the motion as permitted by Rule 1-311(c). The Court would also be asked to act as a finder of fact in an unprecedented manner authorized by Rule 8-414. There is no factual dispute, however, even though the sought correction to the record has been identified as "smoking gun evidence" of a fraud scheme by the Respondents and their counsel.

Statement of the Case

This tort action originates from the Circuit Court for Prince George's County as case number CAL12-22839. Docket entries are **Exhibit A**. At a hearing on March 29, 2013, the Honorable Maureen M. Lamasney granted a preliminary motion to dismiss, entirely adjudicating all claims and the related rights and liabilities of all parties. The trial court's oral opinion and resulting judgement are **Exhibits B** and **C**, respectively.

But Judge Lamasney refused to evaluate the entire complaint (Ex. B at 16:11-8), and also indicated no awareness of the fraud allegation Petitioner raised. His motion for the court to refer the matter to the Attorney Grievance Commission and initiate criminal contempt proceedings went unaddressed. He had also requested the motion to dismiss be stricken and orders of default be entered against the Respondents, which he renewed with a timely post-judgement motion to amend. Rather than hold a hearing, Judge Lamasney signed an order on December 9, 2013, **Exhibit D**, denying the motion. She additionally

determined to amend her judgement anyway, listing alternative grounds for dismissal without elaboration, though the Respondents never filed a motion to amend.

Petitioner timely appealed and this action was docketed in the Court of Special Appeals as case number 2281, September Term of 2013. After that court ordered the appeal to proceed, Petitioner filed a motion to correct the record in the trial court. While that motion was unopposed after the Respondents' time to answer had expired, Judge Lamasney denied it on April 1, 2014, again without elaboration. That order is **Exhibit E**. Petitioner once more moved to correct the record after it was transmitted to the appellate court. That motion, the Respondents' answer, and Petitioner's reply are **Exhibits F, G** and **H**, respectively. The motion also requested a stay of the filing of briefs "because the disposition ... impacts the presentation of issues in this appeal[.]" Ex. F at 7.

Chief Judge Peter B. Krauser never sent the motion to a panel of judges. Instead, by order dated April 16, 2015, **Exhibit I**, he denied the motion by suggesting, without elaboration, there is nothing to correct.[1] The order also establishes deadlines of June 1 and August 1 for the filing of briefs. This petition seeks review of that order, as well as the three orders of the circuit court that are Exhibits C through E.

Questions Presented

1. Did Chief Judge Krauser err when he summarily denied the Rule 8-414 Motion to Substantively Correct Record because "It appears from the record the [missing] papers ... are, in fact, in the record," notwithstanding Petitioner's unopposed affidavit asserting part

[1] Chief Judge Krauser joined in his court's unanimous opinion affirming Judge Lamasney in *Simpson v. State*, 214 Md. App. 336 (2013). That case held there was no constitutional violation because defense counsel protested, and that another issue was harmless by applying a sufficiency of the evidence standard. This Court unanimously reversed, noting an error which "strikes at the core of the right that the Self-Incrimination Clause of the Fifth Amendment ... w[as] designed to protect." No. 22, September Term of 2014, slip op. at 18 (Md., 7 April 2015). This Court also observed, "[S]ignificantly, the court denied the motion [for new trial] without commenting, one way or the other[.]" *Id.* at 5 n. 3. Judge Lamasney's problematic "better to keep your mouth shut" approach to meting justice is emulated by the Respondents in this case and is thus more significant.

of the unserved process returned by the sheriff has been in his possession since it was mistakenly removed from the record by a circuit court clerk and mailed to his home?

a. Did Judge Lamasney abuse her discretion by denying the motion to correct the record without the requested hearing and without any exhibited consideration?
b. Did the trial court transmit a record that inaccurately discloses a proceeding?
c. Can this Court properly conduct the fact-finding necessary to grant the Rule 8-414 motion, and what is the correct appellate procedure for resolving the motion?

2. Did the trial court err by not finding the insufficiency of process defense was fraudulent and the news media Respondents were complicit in that fraud: "A copy of the July filing was discovered by counsel for Defendants when he reviewed the file in the clerk's office after service of the October Complaint was made"?

3. Did the trial court abuse its discretion by not disbarring the Respondents, *i.e.*, striking their motion to dismiss pursuant to rule 1-311(c) and entering orders of default?

4. Did the trial court err as a matter of law when it dismissed this case because "absolutely nothing" false has been publicized about Petitioner?

Statement of Facts

Robert C. Douglas telephoned Petitioner's home in November 2011, leaving a voice message identifying himself as "an attorney with the Capital-Gazette newspapers" and proposing, "They forwarded to me your material, and I just want to chat with you about it." Petitioner countered, "You may direct any meaningful correspondence to this mailing address." Douglas's next contact came a year later when he filed the motion to dismiss. He complained of prejudice: the Respondents were "only now aware that they must prepare a defense" and suffering difficulty.

That motion nevertheless raised an array of defenses. It supposed not a single element of a defamation claim was pleaded, but, if defamation was sufficiently pleaded, the affirmative defense of a qualified privilege also justified dismissal. Also, because Petitioner amended his complaint prior to having the Respondents served, there was insufficient service of process. If none of these were meritorious, then the amended complaint did not relate back to the original pleading, thus exposing the defamation claim

to the statute of limitations. Finally, because the Respondents never received the original pleading, there was insufficient process. Douglas personally attested: "A copy of the July filing was discovered by counsel for Defendants when he reviewed the file in the clerk's office after service of the October Complaint was made."

Nobody has ever disputed that Douglas lied, and the Respondents were indeed served a copy of every paper that had been filed in this case. Nor would the record be restricted to Petitioner's word versus the word of Douglas and the Respondents: Capital-Gazette Communications Inc. and LLC, America's oldest newspaper publishers; Thomas Lee Marquardt, the Daily Record's 2010 Most Influential Person in Maryland and soon-to-be-former editor and publisher of *The Capital*; and Eric Thomas Hartley, former *Capital* reporter who would never write another opinion column about a private citizen after the one which brought on this lawsuit. Perhaps unknown to the Respondents, but not to Petitioner, one process distributed for service had already been returned to the court—returned unserved—by the sheriff. A copy of the "July filing" was included.

Nobody disputed that Douglas lied, although this is what Petitioner accused in his opposition to dismissal, which included a Motion for Grievance, Contempt, Sanctions and Default. Petitioner reasoned the motion to dismiss was professing "the processes served on Defendants did not include a copy of [the original pleading]." He charged, "Not only are [the Respondents] liars, but so too their counsel, caught red-handed." Petitioner included an affidavit avowing he now even had a certified copy of the returned process and "had no knowledge or belief this unserved process would not be served."

The Respondents filed a reply 104 days after being served with the Motion for Grievance, Contempt, Sanctions and Default. "This Response addresses all issues raised by the Plaintiff," they began. Though their motion to dismiss specifically cited Rule 2-322(a)(3), they now maintained they had only raised "statute of limitations, improper service of process, and the Plaintiff's failure to plead sufficient facts[.]" They then explained why their service of process argument was not fraudulent. They also argued that, alternatively, if the motion to dismiss was fraudulent, they could still not be charged with contempt because Rule 15-205(b)(5) prohibits a private citizen from moving the

court. Alternatively, "even assuming the Court desired to grant a Motion for Default," this was prohibited because Petitioner had not shown that the Respondents—who had all made an appearance—were not in military service.

This sound and fury signified very little to Judge Lamasney, however, who dismissed this case after a hearing of about 15 minutes and then departed the courtroom. That hearing began with uninterrupted remarks about murderers and Congress by Douglas, who then offered to discuss the legal elements of defamation. The court instead directed Petitioner to respond, and then received answers to her series of questions about his claim. The court asked Douglas if he would like to be heard further, to which he argued that the statement highlighted by Petitioner was copied from a public record and thus "the immunity" applied. Petitioner expounded the fair report privilege, emphasizing its requirement of impartiality, and then Judge Lamasney announced she was dismissing this case because the statement was not false. She also decreed Petitioner had not pleaded malice, though she never received nor solicited any argument on this point.

But the Respondents did falsely report Petitioner was convicted of harassment for writing, "[Expletive] you, leave me alone," to a person who had not contacted him in months. Petitioner never made this statement or any other statement indicating he suffers from hallucinations. Hartley had warning the person Petitioner did indeed harass was not only the daughter of Maryland's former Commissioner of Correction, but also a "bipolar drunkard." Her allegation was never repeated until the Respondents publicized it as a proven truth, transposing it from her application for charges to Petitioner's guilty plea.

Nor did Petitioner ever tell his victim, "You're going to need a restraining order now," though the Respondents reported this as well. To the contrary, the same page of the application for charges Hartley copied the "leave me alone" allegation from instead accused Petitioner of saying, "I'm done bothering you now," which was not reported.[2] Hartley also falsely reported he left an unreturned call for Petitioner, though he never

[2] As Petitioner had been convicted in the District Court, he retained the right to a jury trial on appeal. The Respondents nevertheless publicized the false and incriminating information in collaboration with the Anne Arundel County State's Attorney's Office.

requested or left a message for Petitioner's comment. Hartley never even telephoned Petitioner, though he had his phone number and reported his guilty plea five days later under the headline "Jarrod wants to be your friend."

In the motion to amend, Petitioner particularized his argument for orders of default because "[the Respondents and their counsel] have conspired to perpetrate a fraud upon [the court], fabricating false grounds for dismissal." He noted the motion to dismiss "offered no other ground for insufficiency of process than the implication that the served processes omitted [the original pleading]."[3] He noted the Respondents' silent retraction of this defense. "None of Defendants objected to being misrepresented; this fraud was collectively ratified by each of them. They did it because they had no worthy defense."

The Respondents retorted without elaboration, "[T]he baseless nature of these allegations has been addressed in a previous filing[.]"

Efforts to Correct the Record

Upon identifying the motion to dismiss as fraudulent, Petitioner contacted the court clerk's office about obtaining a certified copy of the returned unserved process. On November 29, 2012, he filed a letter formalizing this request and acquired the certified documents at that time. Several weeks later, he unexpectedly received a mailing from the clerk's office postmarked December 21, 2012. The envelope contained another certified copy of court records, similar to the one purchased on November 29.

There were several indications, however, this set of copies included original court documents removed from the case file: some pages were of a heavier, 32-pound paper used by Petitioner; ink bleed-through of signatures was visible on the reverse side of some pages, and there was tactile indenture where these papers were signed; and the top margin of these same pages included two punched holes. Both sets of certified copies were produced by the same clerk, who had related to Petitioner that her mother in

[3] One potential other ground was actually apparent. Hartley, who had moved to California, gave a false identity when served process. The server erroneously believed she had served a co-tenant until she was later shown Hartley's picture. Insufficiency of process was asserted by all of the Respondents, however.

Vermont was ill and possibly near death, and that she was noticing herself making mistakes as a result.

It was not until Petitioner inspected the case file after noting an appeal when he observed the absence of the same documents included in the second certified copy. His motion to correct the record in the trial court requested a hearing and cited Rule 8-413(a), alleging part of the returned unserved process was missing. The motion was supported by Petitioner's affidavit, explaining the matter as above. The motion finally stated the sought correction related to a fraud allegation against the Respondents and their counsel that would be an issue on appeal.

The Respondents would only answer the motion after Judge Lamasney denied it, but before her order was docketed. 52 days later the Respondents filed a Motion for Clarification and Response to Plaintiff's Motion to Correct the Record. Petitioner argued in the Court of Special Appeals (Ex. F at 5-6), and the Respondents did not disagree, that the deceitful and frivolous nature of their motion constituted waiver of an opposition to the record's correction. They also did not dispute any aspect of the certified statement of facts Petitioner provided with his Rule 8-414 Motion to Substantively Correct Record.[4]

The Rule 8-414 motion presented the same issues that are questions 1(a), (b) and (c) of this petition. It argued that Judge Lamasney abused her discretion by denying the record's correction because she had refused to even exercise her discretion. Despite the inconsistency between the content of the record and the docket entry for the returned unserved process, the trial court made no factual findings and took no action to "cause the record to conform to its decision" as required by Rule 8-413(a). Furthermore, as the record currently reflects that Petitioner attempted to cause service of a process comprised solely of exhibits B through O of his complaint, any finding the record is not incorrect would be "ludicrous" in the face of Petitioner's unopposed motion. Ex. F at 5.

[4] Petitioner also filed a Motion to Administratively Correct Record in the appellate court because the record was transmitted prior to the docketing of the Respondents' Motion for Clarification. *See* Ex. F, n. 1. This was also denied by the Chief Judge. *See* Ex. I.

The motion also argued, citing the language of Rule 8-414(b) and ***Mosley v. State***, 378 Md. 548, n. 15 (2003), that it was appropriate for an appellate court to act as a trier of fact on the issue presented. Even an evidentiary hearing was permissible, although unwarranted given the Respondents' waiver. Moreover, the clearly erroneous standard was not applicable because the trial court made no factual findings, one way or the other. But the motion left open the possibility of a hearing because "a hearing is the only way to exhibit the documents in [Petitioner's] custody and to be restored to the record."

The motion closed by reasserting the fraud scheme of the Respondents and their counsel, who "still face potential criminal as well as civil liability."[5]

Argument

An attorney infected with dishonesty is intolerable, but this may be only in legal theory rather than practice. The facts of this case reinforce that doubt. It is not just the executive branch of government suffering a perception that misconduct of its officers may be shielded by walls of silence. What has transpired right under Judge Lamasney's nose is shameful, and Chief Judge Krauser has acted with barely more diligence. At best, he disposed of the Rule 8-414 motion after superficial consideration, and at worst he is protecting Judge Lamasney, who is in turn protecting the Respondents and their counsel, just as may have occurred in *Simpson* (*supra* at n. 1).

When a motion in the Court of Special Appeals "impacts the presentation of issues" it should go to a panel, and the Chief Judge abused his discretion on this basis alone. His single-handed disposition has forced an abandonment of the fraud allegation, as it cannot be presented in good faith when the record depicts an insufficient process returned unserved. His equivocal finding of what "it appears" is in the record is unclear, and his uncertainty should have prompted greater deliberation, perhaps at a hearing.

---

[5] Douglas is currently a defendant in *Ramos v. Sondervan*, case number CAL14-20315 in the Circuit Court for Prince George's County. That case is based on the same cause of action as this one, with defendants added under theories of civil conspiracy and aiding and abetting. A split exists within the circuit court as defendants' motions to dismiss have been denied, and there may be a consolidation of cases after this appeal. Douglas's motion admitted the complaint "alleges wrongdoing by the [Respondents]."

The Chief Judge's "finding" is also clearly erroneous, again ignoring a conflicted record. He even denied the Motion to Administratively Correct Record, despite the fact the Respondents' Motion for Clarification has no docket entry at all. It bears repeating the Respondents have never opposed or disputed anything on the issue of correcting the record, even as this issue was decided by an appellate court. Exhibit F is hereby adopted by reference, and the Court is invited to consider the motion right now. If that motion is granted along with this petition, the first question presented would be unnecessary.[6]

If the Court has never denied a petition from Bar Counsel, it should not deny this petition. Nor should the Court encounter any difficulty in adopting the proposed rule, which is based on the same standards as attorney disciplinary proceedings. The case law makes clear an attorney who lies in court should be disbarred. A defendant who lies in court—influential newspaper publisher or otherwise—should be no more tolerable.

Respectfully submitted,

(signature on original)

Jarrod W. Ramos
402 Armstrong Court, Apt. B
Laurel, MD 20707
301-604-4877

[6] An order like that proposed in Exhibit E would be sufficient. *See* Rule 8-414(c) ("The order of the appellate court to correct the record constitutes the correction."). The method and timing of the filing would be at the Court's discretion. *See* Rule 8-414(d) ("[T]he appellate court may … direct the argument to proceed as if the correction or addition had been made and permit it to be filed after argument.").

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2281

September Term, 2013

JARROD W. RAMOS

v.

ERIC THOMAS HARTLEY, et al.

Wright,
Graeff,
Moylan, Charles E., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Moylan, J.

Filed: September 17, 2015

The appellant of this pro se appeal is Jarrod W. Ramos. The appellees are 1) Eric Thomas Hartley, formerly a staff writer and columnist with **The Capital**; 2) Thomas L. Marquardt, the editor and publisher of **The Capital**; and 3) Capital Gazette Communications, LLC.

The factual background to the defamation action is that on July 26, 2011, the appellant entered a guilty plea on a charge of criminal harassment in the District Court of Maryland sitting in Anne Arundel County. Judge Jonas D. Legum initially imposed a 90-day jail sentence but then suspended the sentence and placed the appellant on supervised probation for a period of 18 months with the additional requirement that the appellant continue with his ongoing therapy and that he refrain from any further contact with the harassment victim or her family.

Five days later, on July 31, 2011, the article in issue by staff writer Eric Thomas Hartley appeared in the Sunday issue of **The Capital** under the heading "Anne Arundel Report." The article was entitled, "Jarrod wants to be your friend." The article, in its entirety, read:

> "If you're on Facebook, you've probably gotten a friend request or message from an old high school classmate you didn't quite remember.
>
> "For one woman, that experience turned into a yearlong nightmare.
>
> "Out of the blue, Jarrod Ramos wrote and thanked her for being the only person ever to say hello or be nice to him in school.
>
> "She didn't remember him, so he sent pictures. She Googled him, found a yearbook picture and realized they apparently did go to Arundel High together.

"He was having some problems, so she wrote back and tried to help, suggesting a counseling center.

"'I just thought I was being friendly,' she said.

"That sparked months of emails in which Ramos alternately asked for help, called her vulgar names and told her to kill herself. He emailed her company and tried to get her fired.

"She stopped writing back and told him to stop, but he continued. When she blocked him from seeing her Facebook page, he found things she wrote on other people's pages and taunted her with it, attaching screenshots of the postings to some of his emails.

"She called police, and for months he stopped. But then he started again, nastier than ever.

"All this without having seen her in person since high school. They never met until they came to court a couple of months ago.

"Last week, Ramos, a 31-year-old federal employee, pleaded guilty in District Court to a misdemeanor harassment charge.

"Judge Jonas Legum, who called his behavior 'rather bizarre,' suspended a 90-day jail sentence and placed him on probation, ordering him to continue in therapy and not contact the victim or her family in any way.

"The case is extreme. But it provides a frightening look at the false intimacy the Internet can offer and the venom that can hide behind a computer screen.

"'I read about this all the time, where Facebook conversations, email conversations, start out fine and then take a turn where they become nastier over the course of time,' said Ramos' lawyer, Christopher Drewniak, 'And this is apparently one of those situations.'

"The victim, who asked that her name not be printed, said she lived in fear for her safety for months.

"The emails started in late 2009 or early 2010 – she can't remember exactly, because it was only a few months later that they grew disturbing and she started documenting things.

"At first, she felt bad for him, so she shared some personal information and offered advice.

"'But when it seemed to me that it was turning into something that gave me a bad feeling in the pit of my stomach, that he seems to think there's some sort of relationship here that does not exist ... I tried to slowly back away from it, and he just started getting angry and vulgar to the point I had to tell him to stop,' she told the judge.

"'And he was not OK with that. He would send me things and basically tell me, "You're going to need restraining order now." "You can't make me stop. I know all these things about you." "I'm going to tell everyone about your life."

"An email in April 2010 said, 'Have another drink and go hang yourself, you cowardly little lush. Don't contact you again? I don't give a (expletive). (Expletive) you.'

"Later that month, the woman was suddenly put on probation at the bank where she worked. She said a supervisor told her it was because of an email from Ramos and a follow-up phone call in which he advised them to fire her.

"She said she was laid off in September and believes, but can't prove, it was because of Ramos. She's since gotten another job.

"When she learned what Ramos had done, she called police. He stopped contacting her for a while and started counseling in November. Still, the silence was not comforting.

"'That just left me to feel like he was stewing,' she said. 'For all the time he was silent, he's collecting things about me. And then comes back at me, like, 10 times worse than he had before.'

"The messages resumed in January, referring to friends' Facebook profiles and postings about her and about Ramos himself.

"His messages rambled, calling her 'a bipolar drunkard leading a double life' and saying 'Expletive you, leave me alone' though she hadn't written him in months. He told her she was afraid to let a man get close to her and discussed her family, friends, job and Rotary Club involvement – all information gleaned from the Internet.

"In January, the victim went to court to get a peace order and file charges. Finally, he stopped for good. Ramos, a tall, thin man with long hair he wears in a ponytail, did not speak at the hearing and did not return a call for comment left with his attorney.

"He has a degree in computer engineering and has worked for the U.S. Bureau of Labor Statistics for six years, Drewniak said. He had no previous criminal record.

"Detective Rob Cremen, who handles domestic violence cases in the county police Southern District, said sustained harassment like this is rare.

"Facebook and networks like it offer the chance to reconnect with old friends. But they also can invite unwanted attention. Many people don't realize how much information about them is on social networking sites and elsewhere on the web.

"'It's kind of a double-edged sword,' Cremen said."

On July 23, 2012, just one week before the expiration of the one-year statute of limitations, the appellant filed his initial complaint, charging the appellees with defamation, in the Circuit Court for Prince George's County ("the July Complaint"). The appellant failed to serve a copy of the complaint on the appellees. This July complaint alleged in its entirety:

"1. On July 31, 2011, Eric Thomas Hartley, Thomas Lee Marquardt, Capital-Gazettee Communications, Inc., and Capital-Gazette Communications, LLC (collectively, 'Defendants') published the newspaper column 'Jarrod wants to be your friend' ('Article').

"2. Article contains defamatory statements of and concerning Jarrod W. Ramos ('Plaintiff'), which were read and recognized to be defamatory by third persons, injuring Plaintiff's reputation and exposing him to public scorn, hatred, contempt, and ridicule.

"3. These defamatory statements were and continue to be false.

"4. Defendants communicated these defamatory statements with negligence, reckless disregard for their possible falsity, and actual knowledge of their falsity.

"5. As a direct result, Plaintiff has suffered harm and continues to incur harm."

There was no supporting documentation or affidavit submitted with the complaint. On October 9, 2012, and over two months after the statute of limitations for a defamation claim had expired, the appellant filed a fuller complaint ("the October complaint"). Instead of four bare-bones paragraphs, the October complaint was one of 22 pages. The October complaint also added the charge of invasion of privacy.

Although we have serious reservations over whether the October complaint can be found to relate back to the July complaint and is, therefore, even cognizable, it is completely unnecessary to anguish over this nuance in the filing chronology. But see, Crowe v. Houseworth, 272 Md. 481, 485-86 (1974); Fischer v. Longest, 99 Md. App. 368 (1994). Even the fuller October complaint, assuming its viability, palpably fails to state, as the hearing judge found and ruled, a chargeable offense. One solid reason for affirming the trial court is enough. Scott v. Jenkins, 345 Md. 21, 28 (1997) ("Plaintiff must allege sufficient

facts that, if prove true, would support **every element** of the asserted claim.") (Emphasis supplied).

On November 26, 2012, the appellees filed a Motion by Defendants to Dismiss with Prejudice the Complaint and a Request for Hearing. A full hearing was conducted by Judge Maureen M. Lamasney on March 29, 2013. The appellant's complaint was that he had been defamed in a newspaper article about his having pleaded guilty to a charge of criminal harassment. At the motion hearing, Judge Lamasney probed the appellant to point out a single statement in the article that was actually false or to give a single example of how he had been harmed by the article. He could not do so. Judge Lamasney's ruling was clear:

> "THE COURT: "All right. Mr. Ramos, I'm going to grant the defendant's motion to dismiss this case. And it will be dismissed with **prejudice**. And I'm going to grant it for the following reasons: You are required in your complaint to state a claim with sufficient specificity.
>
> "MR. RAMOS: Your Honor –
>
> "THE COURT: I'm talking now.
>
> "MR. RAMOS: Yes, I'm sorry.
>
> "THE COURT: And dismissal is proper only **if the facts and inferences, even if proven, would not entitle the plaintiff** to relief. And that is what I am finding in your case, that you do not lay out a prima facie case for defamation or for invasion of privacy, or being placed in the false light.
>
> "And the reason I'm finding that is that **there is absolutely not one piece** of evidence, or an assertion by you that the statement was false.
>
> "The one statement you refer to concerning the rambling and referring to messages that you answered when there had been no contact comes directly

from the statement of charges, where she writes, most of his messages are just pages of ramblings regarding my friends, family, job, Rotary Club involvement.

"And it goes on to say that you tell her to leave you alone, and you haven't responded for months. That comes right out of a public document.

"You know, I understand exactly how you feel. I think people who are the subject of newspaper articles, whoever they may be, feel that there is a requirement that they be placed in the best light, or they have an opportunity to have the story reported to their satisfaction, or have the opportunity to have however much input they believe is appropriate.

"But that's simply not true. There is nothing in those complaints that prove that anything that was published about you is, in fact, false.

"It all came from a public record. It was of the result of a criminal conviction. And it cannot give rise to a defamation suit.

"MR. RAMOS: Your Honor, if I may say one more thing?

"THE COURT: Go ahead.

"MR. RAMOS: I would add that the public record from which that statement came from, was not even identified in the column, there was nothing to lead a reader to understand where that statement was being taken from.

"THE COURT: I understand that, but that does not make it false.

"MR. RAMOS: But it makes it unfair.

"THE COURT: I'm sorry, but I am going to dismiss your suit with prejudice.

"MR. RAMOS: And Your Honor, that is only one statement. There are a number of other statements.

"THE COURT: Well, I just referred to the one that you referred to, and I think I put on the record that there is nothing that you have alleged that was false, so I'm going to grant the motion, sir.

"MR. RAMOS: If I understand correctly, then the basis is that there's not a showing of falsity?

"THE COURT: Correct.

"MR. RAMOS: And rather that there is an application of privilege.

"THE COURT: Correct, both that the article was simply not defamatory, that it was based on public record, that you haven't alleged that it was false, and that the article appears to be substantially accurate, and it would fall into the privilege which would make any complaint unsustainable, because they reported a criminal case. They reported a matter of public interest."

(Emphasis supplied).

A discussion of defamation law would be an exercise in futility, because the appellant fails to come close to alleging a case of defamation. In his five-page brief, the appellant devotes two and one-half pages to legal argument. He never alleges that any basic fact contained in the article about his guilty plea is actually false. He claims only that "Hartley's column fails the test of fairness because he editorialized on the story's meaning." There is no allegation of any specific harm that he suffered as a result of the article. He simply described the harm as "incalculable, unforeseen, and potentially unknowable." That does not do it.

The appellant is pro se. A lawyer would almost certainly have told him not to proceed with this case. It reveals a fundamental failure to understand what defamation law is and,

more particularly, what defamation law is not. The appellant is aggrieved because the newspaper story about his guilty plea assumed that he was guilty and that the guilty plea was, therefore, properly accepted. He is aggrieved because the story was sympathetic toward the harassment victim and was not equally understanding of the harassment perpetrator. The appellant wanted equal coverage of his side of the story. He wanted a chance to put the victim in a bad light, in order to justify and explain why he did what he did. That, however, is not the function of defamation law.

The appellant was charged with a criminal act. The appellant perpetrated a criminal act. The appellant plead guilty to having perpetrated a criminal act. The appellant was punished for his criminal act. He is not entitled to equal sympathy with his victim and may not blithely dismiss her as a "bipolar drunkard." He does not appear to have learned his lesson.

JUDGMENT AFFIRMED; COSTS TO BE PAID BY THE APPELLANT.

In the Court of Special Appeals of Maryland

No. 2281
September Term, 2013

JARROD W. RAMOS

V.

ERIC THOMAS HARTLEY, et al.

From the Circuit Court for Prince George's County
(Honorable Maureen M. Lamasney)

Appellant Pro Se
Jarrod W. Ramos
402 Armstrong Court,
Apartment B
Laurel, MD 20707
301-604-4877

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Statement of the Case

This appeal arises from the granting of a preliminary motion to dismiss for failure to state a claim upon which relief can be granted. On July 23, 2012, Appellant Jarrod W. Ramos filed a defamation complaint in the Circuit Court for Prince George's County against Appellees Eric Thomas Hartley, Thomas Lee Marquardt, and Capital-Gazette Communications Inc. and LLC. The complaint was amended to include a second count for invasion of privacy, and at a subsequent hearing on March 29, 2013 the Honorable Maureen M. Lamasney dismissed all claims with prejudice. After his post-judgement motion to amend was denied, Appellant filed a timely notice of appeal (E 92).

Question Presented

1. Did the trial court err as a matter of law by granting the motion to dismiss?

Statement of Facts

Hartley once wrote a newspaper column about a criminal defendant, contacting the person's attorney and place of employment for his comment. The next time Hartley wrote a column about a criminal defendant, he made no effort to contact the person (E 24-5), even though he had his phone number (E 49) and used his name in the headline "Jarrod wants to be your friend." That column is the subject of this case (E 15, 36).

While Hartley claimed Appellant did not return a call for comment left with his attorney, that attorney asserts Hartley did not request or leave a message for Appellant's comment (E 21). Hartley deliberately avoided contacting Appellant because he expected this would produce information contrary to what he published—the original source of some of that information is a "bipolar drunkard" (E 25).

The column was published five days after Appellant pled guilty of harassment (E 17, 24). It claimed Appellant rambled to his victim, "(expletive) you, leave me alone," though she hadn't contacted him in months. Appellant never made the reported statement or any statement resembling it (E 21). Hartley copied the statement from the application for charges without attributing his source (E 23, 44). This allegation had never before been repeated and was not included in the statement of facts accompanying Appellant's plea (E 50). One reader reacted by calling Appellant a "sicko" (E 38).

The column quoted the victim's impact statement, claiming Appellant had told her, "You're going to need restraining order now." "I'm done bothering you now," is what he had actually written (E 20). Hartley only reported the former, though the latter was included in the same page he copied the "leave me alone" allegation from (E 44). "[The harassment case] provides a frightening look at the false intimacy the Internet can offer and the venom that can hide behind a computer screen," Hartley commented (E 36). "I appreciate the awareness that this column raises about stalking," a reader responded, though stalking was not even charged (E 39).

The column was published by each of the Appellees on July 31, 2011 (E 14-5). In September 2011 Appellant mailed Hartley a certified letter outlining a cause of action based on the "leave me alone" statement and demanding a retraction (E 26, 48). In November 2011 the Appellees' counsel telephoned Appellant, leaving a voice message proposing, "They forwarded to me your material, and I just want to chat with you about it." Appellant acknowledged this contact in a letter, countering, "You may direct any meaningful correspondence to this mailing address," but received no answer (E 27, 55). Appellant's first complaint stated that the Appellees were "all well on notice of this claim" and cited the publication of the column (E 11). The complaint pleaded no other specific facts under the defamation count. Appellant included a comparison copy with his amended complaint, claiming relation back to the original pleading (E 12).

Judge Lamasney opened the hearing on the motion to dismiss by asking, "And you have filed your motion to dismiss?" The Appellees' counsel answered affirmatively (E 71). Judge Lamasney concluded the hearing by beginning, "I'm going to grant the [Appellees'] motion to dismiss," and continued, "[D]ismissal is proper only if the facts and inferences, even if proven, would not entitle the plaintiff to relief." (E 83). In her order denying the post-judgement motion to amend, Judge Lamasney repeated that she was granting a motion to dismiss (E 90).

Standard of Review

> We review *de novo* a circuit court's decision to grant a motion to dismiss a complaint for failure to state a claim for which relief can be granted. In so

> doing, we must assume the truth of the well-pleaded factual allegations of the complaint, including the reasonable inferences that may be drawn from those allegations. Dismissal is proper only when the alleged facts and permissible inferences, even if later proven to be true, would fail to afford relief to the plaintiff. In sum, because we must deem the facts to be true, our task is confined to determining whether the trial court was legally correct in its decision to dismiss.

O'Brien & Gere Engineers, Inc. v. City of Salisbury, No. 1734, September Term of 2012, slip op. at 13 (Md. App., 28 April 2015) (citations omitted).

"A copy of any written instrument that is an exhibit to a pleading is a part thereof for all purposes." Rule 2-303(d). "[C]onsideration of the universe of 'facts' pertinent to the court's analysis of the motion are limited generally to the four corners of the complaint and its incorporated supporting exhibits, if any." *Converge Services Group, LLC v. Curran*, 383 Md. 462, 475 (2004).

The trial court's basis for dismissal is irrelevant because an appellate court may examine the record "to determine if the court reached the right result ... albeit for the wrong reason." *Faulkner v. American Casualty Co.*, 85 Md. App. 595, 629 (1991).

Argument

The amended complaint states valid claims for defamation and invasion of privacy by the Appellees. While the original pleading was insufficient, that is inconsequential because "the filing of an amended complaint supercedes the initial complaint, rendering the amended complaint the operative complaint." *Gonzales v. Boas*, 162 Md. App. 344, 355 (2005). The amended complaint relates back to the date of filing of the original pleading, and no affirmative defense can prevail on the undisputable facts and inferences.

A *prima facie* case of defamation is established by four elements: (1) that the defendant made a defamatory statement to a third person, (2) that the statement was false, (3) that the defendant was legally at fault in making the statement, and (4) that the plaintiff thereby suffered harm. *Smith v. Danielczyk*, 400 Md. 98, 115 (2007). Similarly, the elements of one type of invasion of privacy are: (1) that the defendant gave publicity to a matter concerning another, placing him before the public in a false light, (2) that the

false light would be highly offensive to a reasonable person, and (3) that the defendant had knowledge of or acted in reckless disregard as to the falsity of the publicized matter. *Bagwell v. Peninsula Regional Medical Center*, 106 Md. App. 470, 513-4 (1995).

"A defamatory statement is one which tends to expose a person to public scorn, hatred, contempt or ridicule, thereby discouraging others in the community from having a good opinion of, or associating with, that person." *Batson v. Shiflett*, 325 Md. 684, 722-23 (1992). It is defamatory *per se* to say a rambling man was convicted of harassment for writing, "[Expletive] you, leave me alone," to a person who had not contacted him in months. There is no innocent construction in this context, and the conveyed meaning is that the person is psychotic, which is highly offensive. It is also defamatory to accuse someone of saying, "You're going to need a restraining order now," which may constitute a physical threat. It was arguably stalking in the context presented, and readers received it that way, which is harm to reputation.

Though the Appellees are not the original source of these statements, they are responsible for publicizing them. "[A defendant] may be liable for defamation for republication of [a defamatory statement] even though she 'repeated' the words ... and ascribed the statements to the original speaker. ... Thus, *unless the republication was privileged or true*, [one] may be liable for defamation." *Woodruff v. Trepel*, 125 Md. App. 381, 725 A.2d 612, 619 (1999). "The common law of libel has long held that one who republishes a defamatory statement 'adopts' it as his own ... To ameliorate the chilling effect that the republication rule would have on the reporting of controversial matters of public interest, common law courts ... recognize a privilege for fair and accurate accounts of governmental proceedings." *Liberty Lobby, Inc. v. Dow Jones & Co.*, 838 F.2d 1287, 1298-9 (D.C.Cir.). "A defendant abuses his or her fair reporting privilege, not upon a showing of actual malice (as with other common law conditional privileges), but when the defendant's account fails the test of fairness and accuracy. Fairness and accuracy is satisfied when the reports are substantially correct, impartial, coherent, and bona fide." *Piscatelli v. Smith*, 424 Md. 294, 35 A.3d 1140 at 1149 (2012)

(footnote and citations omitted). Hartley's column fails the test of fairness because he editorialized on the story's meaning and, ironically, referred to Appellant as "hiding."

The column also fails the test of accuracy. It does not present the "leave me alone" allegation as an allegation; it presents it as a proven fact. For this reason, that statement is false in two senses: not only does the column claim Appellant said something he did not say; it claims he was convicted for something he was not convicted for. This case is similar to *Time, Inc. v. Firestone*, 424 U.S. 448 (1976), in which Time magazine falsely reported a divorce had been granted on grounds of adultery. In fact, while a divorce had been granted, adultery was not the court's basis and this had only been alleged during an earlier proceeding in the case. Because Hartley's distortion was deliberate, however, he acted with actual knowledge of falsity.

Hartley also followed the Supreme Court's blueprint for tortious journalism from *Harte-Hanks Communications, Inc. v. Connaughton*, 491 U.S. 657 (1989). Failure to interview a key witness (in this case, the subject of the publication) combined with reason to question another source's veracity (the "bipolar drunkard" in this case) is supportive of an intent to avoid the truth, also known as recklessness. When faced with two conflicting statements, Hartley printed the defamatory one and ignored the other. To improve the appearance of his professional integrity, he lied about the extent of his contact with Appellant's attorney. This lie, even if true, still would have betrayed negligence, as it was below Hartley's own previous standard of effort.

The Appellees may wish to argue a statute of limitations defense, but invasion of privacy is subject to the general three-year period. *Allen v. Bethlehem Steel Corp.*, 76 Md. App. 642 (1988). While defamation has only a one-year period, relation back trumps the statute of limitations when a defendant has had notice of specific conduct, as here and in *Youmans v. Douron, Inc.*, 211 Md. App. 274, 65 A.3d 185, 202-3 (2013).

Conclusion

The complaint does state a claim upon which relief can be granted. The circuit court was legally incorrect to grant the motion to dismiss and should be reversed.

This brief is presented in Times New Roman font and 13-point type size.

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Jarrod W. Ramos

@EricHartleyFrnd

Dear reader: I created this page to defend myself. Now I'm suing the shit out of half of AA County and making corpses of corrupt careers and corporate entities.

Laurel, MD

web.archive.org/web/2014012418...

Joined November 2011

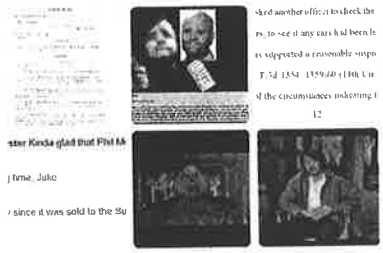

EXHIBIT 11

Pinned Tweet

Jarrod W. Ramos @EricHartleyFrnd · Jun 6

So fortuitous having an open mic to go outside the record in the Court of Appeals. And they think *you're* stupid!?

The Capital
1000 Capital Dr.
Annapolis, Maryland 21401

Dear Tom,

It has become obvious that we have different visions of what the county government reporter should do at The Capital. Since you're the boss, my best option is to resign.

Please consider this my official three weeks notice. My last day on The Capital's books will be Nov. 7, but I have accumulated a week of comp days, so my last day in the newsroom will be Oct. 31.

I will not work at a newspaper where:

- Senior editors discuss reporters' investigations in progress with the subjects of those queries.
- I am instructed to write stories with a slant I cannot back up with facts and believe to be untrue.
- My news judgment is not valued, respected or trusted.

It's best I resign and find someplace where I can pursue my vision of journalistic excellence, and allow you to hire someone who will help you pursue yours.

Sincerely,

Jarrod W. Ramos @EricHartleyFrnd · Sep 17

Fuck you, leave me alone.
mdcourts.gov/appellate/unre...

Jarrod W. Ramos @EricHartleyFrnd · Sep 16

Referring to @realDonaldTrump as "unqualified" @capgaznews could end badly (again).
capitalgazette.com/opinion/column...
Like so:
wsj.com/articles/donal...

View summary

Jarrod W. Ramos @EricHartleyFrnd · Sep 8

Crazy man in the Court of Appeals!

District of Columbia
Court of Appeals

SEP 22 2015
DISTRICT OF COLUMBIA COURT OF APPEALS

No. 15-DA-8 & 15-CV-1006

JARROD W. RAMOS,
Applicant/Appellant,
v. 2014 SCJ 4142

ENTERPRISE INFORMATION SERVICES, INC.,
Respondent/Appellee

BEFORE: Blackburne-Rigsby and Beckwith, Associate Judges, and Nebeker, Senior Judge

ORDER

On consideration of applicant's application for allowance of appeal, the lodged supplement thereto, and the trial court record, it is

ORDERED, *sua sponte*, that the Clerk shall file the lodged supplement. It is

FURTHER ORDERED that the application for allowance of appeal is granted and the Clerk shall file the application and supplement as the notice of appeal in Appeal No. 15-CV-1006.

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FURTHER ORDERED that appellant shall, within 10 days from the date of this order, file with this court either the $40 docketing fee or a motion to proceed *in forma pauperis* in Appeal No. 15-CV-1006. It is

FURTHER ORDERED that the Clerk shall transmit to the Superior Court a copy of this order, together with the application for allowance of appeal and the supplement thereto. It is

FURTHER ORDERED that appellant shall, within 15 days from the date of this order, complete and file with this court a single copy of the statement regarding transcript available for completion online. Where transcript(s) necessary for this appeal have been ordered and completed for non-appeal purposes,

6:29 PM - 8 Sep 2015 · Details

Jarrod W. Ramos @EricHartleyFrnd · Sep 7
I propose MD institute a third-tier appellate court. Then maybe "honorable" COSO judges will stop nonchalantly putting their names on shit.

Jarrod W. Ramos @EricHartleyFrnd · Sep 6
Car warranties are unenforceable after 4 years, regardless of stated length. Shouldn't this reported, @Steve_Lash?
mdcourts.gov/appellate/unre...

Jarrod W. Ramos @EricHartleyFrnd · Sep 5
COSO's Chief Judge doesn't know failure to state a claim is reviewable de novo, skips on argument; Graeff is Graeff:
mdcourts.gov/appellate/unre...

Jarrod W. Ramos @EricHartleyFrnd · Sep 3
Sandbaggers take heed: Adkins and McDonald have no problem with this DIG—issue wasn't preserved for appellate review.
mdcourts.gov/opinions/coa/2...

Jarrod W. Ramos @EricHartleyFrnd · Sep 1
Which is stranger: @LasVegasSun has more followers than @reviewjournal, or Eric Thomas Hartley has more desire to avoid #cert than reversal?

Jarrod W. Ramos @EricHartleyFrnd · Aug 26
It's not the journalist-on-journalist violence that shows @bryce_williams7 is a fake journalist; it's the fake name.

EDITOR & PUBLISHER.

MARYLAND JURY JARS WATCHDOGS

Posted: 4/24/2000 | By: Joe Strupp

$2.5 Million Libel Verdict Is Disturbing To Some

from this week's Editor & Publisher magazine:

by Joe Strupp

Journalists commenting about people they cover are a daily part of life in most newsrooms, along with ringing phones, keyboard clatter, and spilled coffee. Nary a day goes by that a writer or editor isn't spouting an opinion about a local politician, criminal defendant, or other newsmaker.

But after a Maryland jury awarded $2.5 million to a politician who claimed The Capital of Annapolis libeled him - a verdict based primarily on a former reporter's testimony that an editor had told her the paper "was after" the plaintiff - such newsroom comments may become dangerous, observers said.

"It could prevent newspapers from commenting on political candidates, or endorsing," said Lucy Dalglish, executive director of the Reporters Committee for Freedom of the Press. "I'm a little surprised that it didn't get thrown out."

Lawyers for both sides in the suit brought by failed state's attorney candidate John R. Greiber agreed that the libel verdict, handed down April 14, likely turned on the testimony of Melinda H. Rice, a former Capital reporter who quit in October 1997. During the trial, Rice testified under subpoena that Managing Editor Thomas Marquardt had asked her to follow an untrue tip about Greiber allegedly taking political payoffs and write a story about it. She also testified that a city editor had told her that the paper "was after" Greiber.

Although the story was never written and Rice eventually quit, her testimony about the incident was used to allege that the paper had an ulterior motive in its coverage of Greiber, attorneys said. Evidence that a newspaper maliciously tried to defame a plaintiff is a necessary condition for libel of a public figure.

Greiber's suit, filed in 1998, focused on a September 1997 editorial by Marquardt that referred to Greiber's failed 1994 bid for state's attorney and his relationship with John Gary, then Anne Arundel County executive. The editorial said, among other things, that Greiber was "an unqualified ally to whom Gary continues to feed county legal business."

Attorney Ray Mullady, who represented The Capital and its owner, Capital Gazette Communications Inc., said the jury misunderstood the facts and allowed Rice's testimony to sway their opinion. "It was not in conformity with the evidence," he said. "The verdict had nothing to do with the editorial - the jury seemed to be inflamed by the testimony of this reporter who testified about a separate story on a different subject that was never written."

Mullady also said the jury should have better distinguished between comments in an editorial and those in a news article. "I don't think they appreciate the distinction between opinion and fact," he said.

"It was a verdict colored by passion," the RCFP's Dalglish agreed, saying the existence of actual malice was never proven: "Actual malice means knowingly printing something false. Your motive is absolutely irrelevant."

But Kristin Kremer, Greiber's attorney, said the editor's comments in the newsroom showed a bias. "It was reasonable for a jury to conclude that when the editorial ran, the editor had in his mind that our client had been involved in political patronage," she said. "But he had not."

Marquardt said he could not comment on specifics of the case because of pending appeals, but described the outcome as "a sign of the times and unfortunate." Capital Publisher Philip Merrill did not return phone calls, and Executive Editor Edward Casey declined comment.

Joe Strupp (jstrupp@editorandpublisher.com) is an associate editor for Editor & Publisher magazine.

Witness the key in libel trial

Sides agree report of smear campaign shaped jury's decision

April 16, 2000 | By Nancy A. Youssef | Nancy A. Youssef,SUN STAFF

After an Anne Arundel County Circuit Court jury awarded $2.5 million dollars in a libel suit against the Annapolis Capital – one of the largest such judgments in Maryland – lawyers for both sides said the case turned on a reporter who testified against her former employer.

An attorney representing the Capital said the newspaper would appeal, while observers debated the potential impact of the decision on journalists and private citizens.

Attorney John R. Greiber Jr., who ran unsuccessfully for state's attorney in Anne Arundel County in 1994, sued the 50,000-circulation daily for an editorial it published Sept. 28, 1997, about then-County Executive John G. Gary Jr.'s criticism of State's Attorney Frank R. Weathersbee.

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Editorial

The editorial, written by Managing Editor Thomas Marquardt, defended Weathersbee, a Democrat, and contended Gary was retaliating against him for his defeat of Greiber, a fellow Republican. The editorial described Greiber as "an unqualified ally to whom Gary continues to feed county legal business."

Attorneys for the two sides disagreed on the interpretation of that phrase, but both said the jury of three men and three women was impressed by testimony from

Melinda H. Rice, a former county reporter for the Capital.

She told jurors she decided to resign in October 1997, after working 10 weeks at the paper,because an editor told her to write what she said was an untrue story about Greiber. She refused to write the story, she said.

`Whistle-blowing reporter'

"This is a case that is going to be very important in libel because we have a whistle-blowing reporter," said Roy L. Mason, who represented Greiber. Two witnesses testified that Greiber lost $1 million in business after the editorial ran.

Rice's testimony showed that the paper was maliciously trying to defame Greiber, a necessary condition for libel of public figures, Mason said.

"The city editor told her that there was a lawyer in town who was a sleazebag and that the Capital was after him," he said.

Raymond G. Mullady Jr., one of the attorneys for the Capital, said the newspaper plans to appeal.

Rice misunderstood her assignment and her testimony was not germane to the publication of the editorial, he said.

Freedom of expression

"This was an opinion column," Mullady said. "It is obviously very important that there be freedom of expression, especially when it comes to matters of debate."

Greiber contended that the word "unqualified" suggested to readers that he was not qualified to be a lawyer. He also insisted that Gary did not "feed him" any county business, his attorney said.

Mullady told jurors the phrase referred to Greiber's qualifications to be state's attorney and that it was fair comment about a public figure who had run for elected office.

Greiber "didn't have a case based on what was in the editorial. To say that Melinda was asked to write the story has nothing to do with the editorial. Melinda Rice gave them a sensational sideshow," Mullady said. "We would never ask a reporter to slant a story, and we didn't."

Rice, reached in Dallas, where she works as a free-lance journalist, said yesterday that her assignment was clear.

EXHIBIT
0

Marquardt "was the one who gave me the assignment. I quit rather than write that story," said Rice, 32, "I was ordered to do something unethical."

In Maryland, libel cases are typically settled out of court. In 1980, a jury awarded an attorney $400,000 for a statement in a news article in The Evening Sun. In 1961, a former city police sergeant who accused The Sun of libeling him was awarded $43,000.

Gene Roberts, a University of Maryland journalism professor and a former managing editor at the The New York Times and executive editor at the Philadelphia Inquirer, said that while he did not follow the Annapolis case, such judgments are often overturned on appeal. The size of the award reflects a growing trend of juries awarding large amounts in libel cases, he said.

Resources

"I think juries sometimes misunderstand malice," Roberts said. "Some juries may regard this as malice, but this is not what the courts say. It is the kind of case that some years ago I think would have been tossed."

Roberts said the case is important to private citizens, because newspapers have resources most private citizens do not -- such as libel insurance and the money to file an appeal.

"A private citizen, even if they won an appeal, might go bankrupt," Roberts said. "The result is it makes people less reluctant to speak out about things they should be able to speak out about."

Sun staff researcher Sarah Gehring contributed to this article.

Eric Hartley: For most, this court is 'the last hope'

By **ERIC HARTLEY, Staff Writer**

FEBRUARY 23, 2012

His phone doesn't ring much anymore.

For seven years, Timothy Meredith of Severna Park has been a judge on the Maryland Court of Special Appeals, a body mostly invisible except to lawyers.

In the public imagination, this court's job is neither as sexy as that of trial judges who sentence murderers nor as lofty as that of the Court of Appeals, which functions as the state supreme court and picks and chooses its cases.

But the 13 judges on the Court of Special Appeals wrote 1,352 opinions last year, 79 by Meredith. It's the only appeals court that *has* to hear your case. The Court of Appeals takes less than 20 percent of the cases it's asked to hear - and, given the expense, many people don't bother trying it.

Article continues below ↓

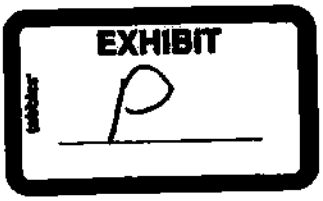
"That means that in 90 percent of the cases ... we're the last hope for the litigants," Meredith said.

The settings aren't glamorous.

True, the larger courtroom, which is in the appeals court building off Rowe Boulevard in Annapolis, is something like you might expect: high ceilings, a curving elevated bench.

But to get to Courtroom 2, where Meredith sat on a panel one recent Tuesday, you go behind a bank of elevators on the second floor, past a delivery window and down a hallway lined with file carts. The windowless courtroom has no benches, simply chairs against the walls. On days it's not being used, it's often filled with boxes of files.

The court meets in three-judge panels to hear oral arguments only seven days a month. Usually, each judge hears cases on only three of those days.



The rest of the time, they read. And then read some more: There are briefs by the lawyers, memos by their law clerks, draft opinions by other judges. And they write their own opinions.

It's an important job. But it's also a limited one.

"You always hear, 'Well, I'm going to appeal!' " said Meredith, a soft-spoken man with a white beard. But appellate judges can't just reverse a case just because they don't like the result or would have ruled differently had they been the trial judge or been on the jury.

They're supposed to see whether the law was applied correctly - not whether someone was guilty, for example, but whether a judge should have admitted a particular piece of evidence.

It's a job that takes restraint.

Charles E. Moylan Jr., 81, a retired Court of Special Appeals judge who still hears cases, said trial court judges can be like Star Trek's "Captain Kirk." They must have a feel for what's right and use a certain intuition.

An appeals court judge, Moylan said, has to be "Mr. Spock," ruthlessly applying logic and the law so their rulings, which can affect thousands of future cases, are consistent.

That limitation can be frustrating, said Meredith, a Republican appointed to the bench by Gov. Robert L. Ehrlich Jr. But it comes with the job.

Most of the court's opinions are "unreported," meaning they resolve the case but have no precedent. They can't be cited by lawyers in future cases and are rarely seen by the public.

Barely 10 percent of cases are reported. When a three-judge panel thinks it has a ruling of precedential value, it's reviewed by all 13 judges and then voted at their monthly conference.

Judges put more time into the reported opinions, which involve tougher legal questions and can run dozens of pages. Some unreported opinions, Moylan said, can be as short as three or four pages.

Meredith, 59, grew up in Federalsburg on the Eastern Shore. During his 26 years as a private attorney, his phone rang all the time, and he got visitors frequently.

Now, his third-floor office is quiet. Many of the judges he works with aren't even in the same building. They all come to Annapolis to hear cases, but the rest of the time they work in offices around the state.

On this day, Meredith sat with Judges Michelle Hotten of Prince George's County and Albert Matricciani of Baltimore. They'll exchange drafts and agree on their opinions by email.

Given the volume of its business, the court has to work quickly.

In about two hours this day, the panel heard five cases: a dispute over auto insurance reimbursement, a medical malpractice case with an allegation of a conflict of interest, a dispute over backdating expenses in a divorce case, a case in which a homeowners' association wanted to stop people from renting rooms in their house, and a criminal defendant arguing that his guilty plea should be vacated because he didn't really agree to the facts.

Usually, the judges meet privately for 10 to 15 minutes right after arguments end. That means each case might be discussed for only a few minutes. The tentative author, assigned weeks earlier by chief judge, says how he or she thinks they should rule.

Almost always, the judges are unanimous. Meredith said he has written about 600 opinions in his years on the court, but fewer than 15 dissents. He said the workload discourages writing separate opinions, as Supreme Court justices famously love to do.

Rarely does a day go by without an opinion or eight from the Court of Special Appeals. It has already released 208 this year. Some time in the next few weeks or months, the opinions on this day's cases will begin to trickle out, just five among the 1,300 or more the court should produce in 2012.

Like most, they'll probably go largely unnoticed. But to the people involved, they mean everything.

Read Eric Hartley's "Arundel Outtakes" blog at http://www.hometownannapolis.com/blogs.

ehartley@capgaznews.com

This article is related to: Trials and Arbitration, Courts and the Judiciary, Robert L. Ehrlich Jr.

News

Appellate court upholds ruling in favor of Capital-Gazette

Tim Pratt · Contact Reporter
tpratt@capgaznews.com

SEPTEMBER 22, 2015, 6:07 PM

Maryland's second-highest court last week upheld a ruling in favor of Capital-Gazette Communications, a former reporter and a former publisher accused of defamation.

Jarrod Ramos of Laurel made the defamation claim in Prince George's County Circuit Court in 2012 after a 2011 column by then-*Capital* staff writer Eric Hartley about Ramos' guilty plea to criminal harassment.

Prince George's Circuit Court Judge Maureen M. Lamasney dismissed Ramos' claim in 2013, saying the article was based on public records and Ramos presented no evidence it was inaccurate.

Ramos, who represented himself, appealed the decision to the Maryland Court of Special Appeals, which upheld Lamasney's ruling in an opinion filed Thursday.

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"A lawyer would almost certainly have told him not to proceed with this case," the court wrote in the opinion. "It reveals a fundamental failure to understand what defamation law is and, more particularly, what defamation law is not."

Eric Hartley: Dave Cordish is a prince among men

Posted: Thursday, February 17, 2011 12:00 am

By ERIC HARTLEY, The Capital | 0 comments

Let me tell you something about David Cordish: I have absolutely nothing bad to say about him.

No, sir. I think Cordish, who filed a defamation lawsuit this week against people who said mean things about him, is a fine corporate citizen and a handsome devil to boot.

He is not a millionaire who has repeatedly used highly paid lawyers and the court system in an attempt to silence competitors or opponents.

As a working journalist who can't afford to hire a lawyer, I would never say that Cordish's lawsuit is absurd, the $600 million it seeks pulled out of thin air and its central allegations hypocritical.

It would be wrong of me to say that Cordish is mostly angry because rich developers usually get their way, and it wasn't so easy this time.

To suggest that the 71-year-old Cordish is acting like a baby because he wasn't the only one with millions to spend to twist public opinion to his side - that, too, would be wrong.

I'd never say that it's pretty rich for a man who spent months accusing opponents of fraud and deceit to complain about *his* good name being dragged through the mud.

Oh, and Cordish sure doesn't look like a Sith lord from "Star Wars." Not a bit. Especially in the picture you can see at http://tinyurl.com/notasithlord.

To some people, it might seem hilarious for Cordish to complain that the opposition wasn't a grass-roots effort, but funded by corporations protecting their own interests.

These people might point out that Cordish, too, spent millions promoting his own interests, yet cloaked himself behind police officers, teachers and firefighters in the ads seeking voters' support for slots.

Never highlighted in those ads were the hundreds of millions Cordish stands to make, since the casino operator gets a third of the profits.

You might add that Cordish also tried to win by "any means necessary," as his lawsuit accuses the other side of doing. Or that conspiring to mislead voters is the definition of running a political campaign.

You might say that. Not me, though.

I won't point out that his defamation lawsuit seems counterproductive, since it will just lead to a raft of news stories repeating the negative allegations it contains.

The election fight is over and Cordish won. Yet, you can say, "The company behind the slots at the mall scheme has operated only one casino and it's a financial disaster."

And you can say it with legal privilege because it's contained in Cordish's own court filing.

So by quoting it, *I'm* not saying that Cordish oversaw a "financial disaster." I am saying that someone else said those words.

About the "financial disaster," I mean.

Some people would say all this and more - just not me.

Like I said, I love Cordish. He's a great guy.

Read Eric Hartley's "Arundel Outtakes" blog at www.hometownannapolis.com/blogs

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JARROD W. RAMOS	*	**In the COURT OF APPEALS of MARYLAND**
v.	*	**Pet. Docket No.** 466
ERIC THOMAS HARTLEY, et al.	*	**September Term, 2015**

Certificate of Service

This document accompanies one original and seven copies of the above-captioned Petition for Writ of Certiorari. I do certify that on this 3rd day of November 2015 I served a copy of that paper and this paper upon each other party by mailing them to W. Zak Shirley at 6225 Smith Avenue in Baltimore, MD 21209.

Respectfully submitted,

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